

# Master of Laws: Advanced Studies in International Children's Rights



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**The Committee on the Rights of the Child's role regarding the  
impact of global operations of businesses on children's rights**

Thesis submitted by

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examination of the Advanced LL.M.  
International Children's Rights

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## List of Abbreviations

<b>CO</b>	United Nations Committee on the Rights of the Child Concluding Observation
<b>CRC</b>	United Nations Convention on the Rights of the Child
<b>CRC Committee</b>	United Nations Committee on the Rights of the Child
<b>CRC Committee Guidelines</b>	Treaty-specific guidelines regarding the form and content of periodic reports to be submitted by States parties under article 44, paragraph 1(b), of the Convention on the Rights of the Child
<b>GC 5</b>	General Comment N° 5 (2003) General measures of implementation of the Convention on the Rights of the Child
<b>GC 12</b>	General Comment N° 12 (2009) The right of the child to be heard
<b>GC 14</b>	General comment N° 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1)
<b>GC 16</b>	General comment N° 16 (2013) on State obligations regarding the impact of the business sector on children's rights
<b>ILO</b>	International Labour Organization
<b>MNEs</b>	Multinational Enterprises
<b>NGO</b>	Non-Government Organization
<b>NHRO</b>	National Human Rights Organization
<b>OECD</b>	Organization for Economic Co-operation and Development
<b>SOMO</b>	Centre for Research on Multinational Corporations
<b>UN</b>	United Nations
<b>2011 GP</b>	United Nations Guiding Principles on Business and Human Rights

## Executive summary

The relation between the business sector and the enjoyment of the rights of persons is not new. This relationship became stronger since the middle of the 19<sup>th</sup> Century. Actually, the globalization of economy presents the transnational corporations as one of its main actors. This interaction affected the evolution of the international human rights discourse, including the international human rights of children.

The CRC (1989) is the most ratified international human rights treaty. Under the CRC provisions State Parties have the obligation to undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the CRC (Article 4). The CRC Committee had explained that those obligations include the obligation to ensure that non-State service providers operate in accordance with its provisions, creating indirect obligations to such actors.

The role of the business sector, as a non-State actor, grew up into the international children's rights discourse after the adoption of the CRC. There are two milestone moments where this trend was evidenced: i) the CRC Committee 2002 Day of General Discussion on the private sector as a service provider, and ii) the adoption of the GC 16 in 2013.

GC 16 defines global operations of business as business enterprises operating in a global scale through complex networks of subsidiaries, contracts, suppliers and joint ventures. Taking into consideration these complex economic networks, the CRC Committee developed an extraterritorial standard with obligations to Home States and Host States. Host States has the primary responsibility to protect the enjoyment of the rights of all children in its territory, and Home States have the obligation to respect, protect and fulfil children's rights in the context of business extraterritorial activities and operations where a reasonable link exists between that State and the conduct concerned.

During the years, the most important mechanism to monitor the implementation of the CRC is the States reporting procedure, which ends with the adoption of the CRC Committee Concluding Observations (CO's). These reporting cycles are the periodic opportunity of the Committee to evaluate if a State undertake all the necessary provisions to fulfil all its obligations under the scope of the CRC.

The aim of this thesis is to analyse the views of the CRC Committee regarding the negative impact of global operations of business on children's rights. To pursue that goal, the author relies on the most recent concluding observations adopted by the CRC Committee in order to analyse to what extent the extraterritorial standard was addressed by the CRC Committee.

After an objective selective process, the author considered the CO's on 65 countries in five regions of the world in which the CRC Committee raised concerns and recommendations about the negative impact of global operations of business on children's rights. The result of this selection process is presented in a systematic way through regional charts where the author finds how important is to apply the extraterritorial approach in order to understand the real impact of this business activities on the rights of children in the Host States.

To fully analyse the content of the CO's it is important to be aware about the actors involved in the reporting procedure. The UN Human Rights Treaty System explains that the monitoring role is not an individual task of the human rights treaty body, in this case the CRC Committee. The issues raised during the CRC reporting cycles depends on the information provided by the States, UN agencies, NHROs, NGOs and other organizations working in this field. Even though the CRC Committee leads this procedure, it is dependent on the quantity and quality of the information provided during the reporting cycles.

Following the rules of the extraterritorial standard explained in GC 16, the author considered three specific cases, related to the global operations of business, matters of concern addressed by the CRC Committee during the most recent reporting cycles. These cases are: i) the oil pollution in the Niger Delta, ii) the garment industry in Bangladesh, and iii) the cocoa industry in Ghana.

In order to homogenize the correct application of the GC 16 extraterritorial standard, the author recommends that CRC Committee needs to lead the dissemination and understanding of this important standard. The improvement of future State reporting cycles depends on the active participation of all the necessary actors (CRC State Parties, UN agencies, NHROs, NGOs and academics). The improvement of the COs recommendations elaborated by the CRC will constitute in a practical tool to monitor the fulfilment on the rights of the child established in the CRC.

**Key words**

Children's rights; global operations of business; extraterritorial jurisdiction; concluding observations.

## **Overview of Main Findings**

This thesis has three main findings, providing technical recommendations to improve the monitoring role of the CRC Committee regarding the impact of the global operations of businesses on children's rights.

First, this thesis is a pioneer academic paper which takes all the most recent concluding observations of the CRC Committee in order to identify to what extent the CRC Committee addressed the extraterritorial standard adopted in its GC 16. It will serve as a base line for future debates or deeper investigations about the direct relationship between the globalization of economic activities and the rights of the child.

Second, this thesis is the first academic paper to focus exclusively in the extraterritorial standard adopted by the CRC Committee in its GC 16. This approach requires to understand that under this topic the concluding observations are not solely related to one CRC State Party. Host States and the Home States needs to respond with different but complementary approaches in order to respect, protect and fulfil the rights of the child.

Third, the analysis developed in the thesis revealed that the quality of the monitoring role of the CRC Committee, which main tools are the CO's, highly depends on the participation of all the necessary actors during a reporting cycle (CRC State Parties, UN agencies, NHROs, NGOs and academics). The extraterritorial standard of the GC 16 requires a special type of approach, because of the involvement of more than one CRC State Party.

Furthermore, the application of the extraterritorial standard by the CRC Committee should require to its members new strategies in order to understand and monitor the direct and indirect effects that multinational enterprises have on the rights of the child.

Finally, this academic paper represents the tip of the iceberg. Further academic research is required to provoke more attention and understanding of the worth and practicalities of the extraterritorial standard, with the aim to respect, protect and fulfil the rights of all children around the world.

# 1. Introduction

## 1.1 Background

The CRC Committee had recognized that the “business sector’s impact on children’s rights has grown in the past decades because of factors such as the globalized nature of economies and of business operations and the ongoing trends of decentralization, and outsourcing and privatizing of State functions that affect the enjoyment of human rights”<sup>1</sup>. Also, this human rights treaty body had pointed out that the realization of children’s rights is not an automatic consequence of economic growth and business enterprises can also negatively impact children’s rights.

The relation between businesses and the enjoyment of children’s rights is not new; this interaction has been always present through history. However, the CRC Committee is conscious that there is no international legally binding instrument on the business sector’s responsibilities vis-à-vis human rights<sup>2</sup>. The universal ratification of the CRC<sup>3</sup> placed responsibilities to all State’s members, including indirectly private actors and business enterprises. For this reason, the human’s rights system has developed specific norms, standards and policy guidance on business and children’s rights.

There is not a unanimous definition of globalization in the academic world because of its connection with diverse disciplines like economy, politics, anthropology, sociology and law, each one with its own factors and considerations. For the aim of this thesis the conceptualization provided by Pollis will be adopted, who defines globalization as a multi-levelled and multifaceted phenomenon, currently underpinned by the ideology of neoliberalism, whose intrinsic nature consist of intricately interwoven and interdependent technological, economic, political, cultural and sociological elements<sup>4</sup>.

The ratification process of the CRC, which by the date has reached 196 countries around the world, coexisted with the development and transformation of the phenomenon of economic globalization through the last 30 years. Alerts about possible socioeconomic negative impacts of it in the implementation of the rights of children around the world were raised by specialists like Prof. Jaap E. Doek, who mentioned sixteen years ago that social safety nets are necessary to prevent the negative impact of the liberalization of the economy<sup>5</sup>.

April 17<sup>th</sup> 2013 is a milestone date because it was the day when the CRC Committee published the GC 16 after twenty-four years after the adoption of the CRC. This is the first child centred soft law instrument fully dedicated to the interaction between the business sector and children’s rights. Before GC 16 other relevant instrument were used to address the mentioned interaction. i.e. the ILO Conventions N° 138

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<sup>1</sup> UN Committee on the Rights of the Child General Comment N° 16 (2013) on State obligations regarding the impact of the business sector on children rights, paragraph 1.

<sup>2</sup> *Id*, paragraph 8.

<sup>3</sup> The United States of America is not a CRC State Party. The ratification procedure is still pending.

<sup>4</sup> Pollis, Adamantia. "Human Rights and Globalization." *Journal of Human Rights* 3.3 (2004): 343-58, at 343

<sup>5</sup> Doek, Jaap E. "The U.N. Convention on the Rights of the Child: Some Observations on the Monitoring and the Social Context of Its Implementation." *University of Florida Journal of Law and Public Policy* 14.2 (2003), at 132.

and N° 182<sup>6</sup>, the UN “*Protect, Respect and Remedy*” Framework<sup>7</sup>, the *Guiding Principles on Business and Human Rights* adopted by the UN Human Rights Council<sup>8</sup>, the OECD *Guidelines for Multinational Enterprises*<sup>9</sup>, the *Global Compact principles*<sup>10</sup>, the UN *Study on Violence against Children*<sup>11</sup> and the *Children’s Rights and Business Principles*<sup>12</sup>.

Section V of the GC 16 identified a non-exhaustive list of contexts where the impact of business enterprises can be significant and where States’ legal and institutional frameworks are often insufficient, ineffective or under pressure. These are<sup>13</sup>: (i) provision and management of services, (ii) the informal economy, (iii) the global operation of business, (iv) international organizations for development, finance and trade, and (v) emergency and conflict situations. Even though all the contexts mentioned above are closely interconnected, the present document makes particular emphasis on the rights of children and global operations of businesses considering the guidance of the CRC Committee, which says that States *should create an enabling and supportive environment for business enterprises to respect children’s rights, including across any business relationships linked to their operations, products or services and across their global operations*<sup>14</sup>.

## 1.2 Definitions and scope

### 1.2.1 Business sector:

According to Bagley<sup>15</sup> the laws governing business can be broken down into several basic categories: contracts; agency; employment laws; forms of business entities; commercial laws governing the sale of goods, negotiable instruments, and secured lending transactions; product liability; and intellectual property. Other laws affecting the legal environment in which businesses operate include antitrust and competition law, environmental law, consumer protection laws, regulations governing banking and the offer and sale of securities, and bankruptcy law.

The CRC Committee in the GC 16 adopted the following definition of business sector: all business enterprises, both national and transnational, regardless of size, sector, location, ownership and

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<sup>6</sup> International Labour Organization (ILO), Minimum Age Convention, C138, 26 June 1973, C138. <https://www.refworld.org/docid/421216a34.html> (last accessed 02-07-2019)

International Labour Organization (ILO), Worst Forms of Child Labour Convention, C182, 17 June 1999, C182. <https://www.refworld.org/docid/3ddb6e0c4.html> (last accessed 02-07-2019)

<sup>7</sup> UN Human Rights Council, Protect, respect and remedy: a framework for business and human rights: report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises, John Ruggie, 7 April 2008, A/HRC/8/5

<sup>8</sup> UN Guiding Principles on Business and Human Rights, 2011, HR/PUB/11/04. [https://www.ohchr.org/documents/publications/GuidingprinciplesBusinesshr\\_eN.pdf](https://www.ohchr.org/documents/publications/GuidingprinciplesBusinesshr_eN.pdf)(last accessed 02-07-2019)

<sup>9</sup> Organisation for Economic Cooperation and Development (OECD), OECD Guidelines for Multinational Enterprises, 27 June 2000, available at: <https://www.refworld.org/docid/425bd34c4.html> (last accessed 02-07-2019)

<sup>10</sup> The ten principles of the UN Global Compact. <https://www.unglobalcompact.org/what-is-gc/mission/principles> (last accessed 02-07-2019)

<sup>11</sup> UN General Assembly, Rights of the child: note / by the Secretary-General, 29 August 2006, A/61/299.

<sup>12</sup> Children Right’s and Business Principles. [https://www.unglobalcompact.org/docs/issues\\_doc/human\\_rights/CRBP/Childrens\\_Rights\\_and\\_Business\\_Principles.pdf](https://www.unglobalcompact.org/docs/issues_doc/human_rights/CRBP/Childrens_Rights_and_Business_Principles.pdf) (last accessed 02-07-2019)

<sup>13</sup> GC 16, paragraph 32.

<sup>14</sup> See 1, *supra*, paragraph 5.

<sup>15</sup> Bagley, Constance E. "Business Law." International Encyclopedia of the Social & Behavioral Sciences. 2015, at 27.

structure<sup>16</sup>. Compared with Bagley's definition, the GC 16 one is more accurate and easier to apply in real situations.

### 1.2.2 Global operations of business (Multinational Enterprises):

According to GC 16, the global operation of business is a special category of business which consist in operations through complex networks of subsidiaries, contractors, suppliers and joint ventures<sup>17</sup>, involving more than one jurisdiction with potential positive or negative impacts on the rights of the child. The main complexity of this type of business enterprises remains in the fact that they are often legally separate entities located in different jurisdictions even when they operate as an economic unit which has its centre of activity, registration and/or domicile in one country (Home State) and is operational in another (Host State)<sup>18</sup>. However, it is important to consider that it is possible that in more than two countries this type of business enterprises operate under the same supply chain for good or services.

On the technical level, what the GC 16 defines as global operations of business are named Multinational Enterprises (MNEs). According to Muchlinski, MNEs differ in their capacity to locate productive facilities across national borders, to exploit local factor inputs thereby, to trade across frontiers in factor inputs between affiliates, to exploit their own know-how in foreign markets without losing control over it, and to recognize their managerial structure globally according to the most suitable mix of divisional lines of authority. Consequently, they can and should be treated as a distinct type of business enterprise for the purposes of economic regulation<sup>19</sup>.

### 1.2.3 Global operations of business and human rights:

The classical or orthodox views is that only States and State agents can be held responsible for human rights violations. The discussion about to what extent transnational corporations or other businesses operating internationally are responsible for the fulfilment of human rights is not new for academics and authorities. For that reason, in 2003 the UN Commission on Human Rights adopted *Norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights*<sup>20</sup> asserting that States have the primary responsibility to ensure that transnational corporations and other business enterprises respect human rights.

### 1.2.4 Children's rights and global operations of business:

According to Martin-Ortega and Wallance, the attention on the impact private sector activities has on children rights has been fragmented and focussed on specific sectors, mainly child labour and

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<sup>16</sup> GC 16, paragraph 3.

<sup>17</sup> GC 16, paragraph 38.

<sup>18</sup> *Id.*

<sup>19</sup> Muchlinski, Peter. *Multinational Enterprises and the Law*. 2nd [rev. and Updated] ed. Oxford [etc.]: Oxford UP, 2007, at 8.

<sup>20</sup> UN Sub-Commission on the Promotion and Protection of Human Rights, Economic, Social and Cultural Rights: *Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights*, 26 August 2003, E/CN.4/Sub.2/2003/12/Rev.2

the privatisation of public services<sup>21</sup>. It is important to remark that global operations of businesses impact also other rights of the child like education, highest standard of health and to live free of all forms of violence (including exploitation). The CRC Committee position is that the realization of children's rights is not an automatic consequence of economic growth and business enterprises can also negatively impact children's rights<sup>22</sup>.

The CRC Committee adopted a holistic approach, remarking that a child rights approach in the context of business activities should consider the rights of the child as universal, indivisible, interdependent and interrelated. The four CRC general principles should be the basis of all State's decisions: (i) the right to non-discrimination, (ii) the best interest of the child, (iii) the right to live, survival and development, and (iv) the right of the child to be heard should be the basis of all State's decisions. Focusing on the role of the businesses enterprises, like Collins says "business should demonstrate leadership on children's rights in their communities and/or the world, depending on their size and scope. They should advance rights awareness-raising within the business structure with their employees, owners, suppliers, and inform customers accordingly. Accountability to their commitments is necessary through corporate governance and can be supported by States and other actors in society"<sup>23</sup>.

#### 1.2.5 Extraterritorial standard in the context of global operations of business

GC 16 describes this standard under its section *Children's rights and global operations of business*<sup>24</sup>, stating that States have the obligation to: i) respect and ensure children rights within their territory<sup>25</sup> and ii) engage in international cooperation for the realization of children's rights beyond their territorial boundaries<sup>26</sup>. Considering that multinational enterprises operations involve more than one country, GC 16 adopted two different (but complimentary) obligations for both home and host states.

Host States have the primary responsibility to respect, protect and fulfil children's rights in their jurisdiction<sup>27</sup> through legal and institutional regulations for multinational corporations operating within their borders. Home States also have the obligation to respect, protect and fulfil children's rights in the context of businesses' extraterritorial activities and operations, provided that there is a reasonable link between the State and the conduct concerned<sup>28</sup>. GC 16 explains that a reasonable link exists when a business enterprise has its centre of activity, is registered or domiciled or has its main place of business or substantial business activities in the State concerned.

Address the extraterritorial standard in the context of global operations of business is a case by case evaluation which requires the identification of both Home State and Host State. As it was detailed above, State's obligations differ depending on their position in the business network.

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<sup>21</sup> Martin-Ortega, Olga, & Wallace, Rebecca. (2013). Business, human rights and children: The developing international agenda. Denning Law Journal, 25, at 111.

<sup>22</sup> GC 16, paragraph 1.

<sup>23</sup> Collins, T. (2014). The relationship between children's rights and business. The International Journal of Human Rights, 18(6), at 615.

<sup>24</sup> GC 16, paragraphs 38 to 45.

<sup>25</sup> GC 16, paragraph 39

<sup>26</sup> GC 16, paragraph 41

<sup>27</sup> GC 16, paragraph 42

<sup>28</sup> GC 16, paragraph 43

However, they share the general obligation to respect, protect and fulfil children rights under the CRC provisions.

### 1.2.6 The monitoring role of the Committee on the Rights of the Child:

Krommendijk says “one of the most important international mechanisms to monitor the implementation of UN human rights treaty standards is the process of state reporting (...). The assessment of the state report ends with the adoption of legally non-binding recommendations, the Concluding Observations (CO’s)”<sup>29</sup>. The almost universal ratification of the CRC<sup>30</sup> established large and fruitful reporting cycles. The CRC Committee and its monitoring role has been in permanent evolution through its working years. According to Verheyde and Goedertier, this monitoring role which implicates the identification of law reform (including its implementation) and trace of certain measures and practises is very complex, time-consuming and in a lot of occasions impossible<sup>31</sup>.

Despite the complex and challenging nature of the monitoring mandate of the CRC Committee as part of the UN human rights treaty body system, specialized research has shown that some CO’s have contributed to or accelerated policy and legislative measures, often among many other factors<sup>32</sup>.

### 1.3 Aim and research question

The aim of this thesis is to analyse the views of the CRC Committee regarding negative impacts of global operations of businesses on children’s rights. To accomplish this aim, 4 sub questions will be addressed.

- a) To what extent does the GC 16 have an impact on the CO’s of the CRC Committee regarding the impact of global operations of business on children’s rights?
- b) How applies the CRC Committee the extraterritorial standard in its CO’s regarding the impact of global operations of business on children’s rights?
- c) How is the extraterritorial standard addressed by the CRC Committee in home and host States?
- d) How could the monitoring role of the CRC Committee respecting the State’s obligations related to the global operations of business be improved?

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<sup>29</sup> Krommendijk, J. (2015). The domestic effectiveness of international human rights monitoring in established democracies. The case of the UN human rights treaty bodies. *The Review of International Organizations*, 10(4), at 490.

<sup>30</sup> According to the UN Database all countries around the world are State Parties of the CRC except for the United States of America. [https://www.ohchr.org/Documents/HRBodies/CRC/OHCHR\\_Map\\_CRC.pdf](https://www.ohchr.org/Documents/HRBodies/CRC/OHCHR_Map_CRC.pdf) (last accessed 27-06-2019)

<sup>31</sup> Verheyde, Mieke, & Goedertier, Geert. (2005). The effectiveness of the Reporting Procedure. A Commentary on the United Nations Convention on the Rights of the Child, Volume 43 Articles 43-45: The UN Committee on the Rights of the Child (Commentary on the United Nations Convention on the Rights of the Child). Martinus Nijhoff, at 49

<sup>32</sup> Krommendijk, J. (2015). The (in)effectiveness of UN human rights treaty body recommendations. *Netherlands Quarterly of Human Rights*, 33, at 221

## 1.4 Analytical framework and Methodology

### 1.4.1 Children's Rights Legal Framework of Analysis

In responding to the sub questions, the thesis joins the position of the CRC Committee regarding the role of the private sector (businesses, NGOs and other private actors, both for profit and not-for-profit with the fulfilment of the rights of the child)<sup>33</sup>. The Committee explains that "States parties to the Convention have a legal obligation to respect and ensure the rights of children as stipulated in the Convention, which includes the obligation to ensure that non-State service providers operate in accordance with its provisions, thus creating indirect obligations on such actors"<sup>34</sup>. Regarding the global operation of business, Section C of Chapter IV of the GC 16 provides the legal analytical framework, making an emphasis on whether positive or negative impacts of global operations of business on the rights of children.

Consequently, the present thesis analyses the role of the CRC Committee with respect to the obligations of Home and Host States involved in global business operations, using the most recent CO's as the principal sources for analysing the effectiveness of the implementation of the right of the child established in the CRC.

### 1.4.2 Methodology

In order to answer the four sub questions, I have studied 65 of the most recent CO's of the CRC Committee adopted between 2010 and May 2019. In the period mentioned the CRC Committee issued CO's for 123 countries (see Annex I) and I selected 65 of them for further consideration in the context of my thesis using the following criteria:

- Countries that submitted their first (initial) report to the Committee were excluded;
- In identifying relevant CO's I used the following keywords for in particular the concerns and recommendations issued by the Committee on Cluster 1 of the CO's on the General Measures of Implementation of the CRC and the cluster on Special protection measures: business, child labour, company(ies), corporation, education, economic exploitation, enterprise(s), environment, health and industries. The reason for the use of these keywords was the expectation to obtain homogenized resulted data.
- Further selection took place on the basis of the concerns and recommendations expressed by the CRC Committee regarding the negative impact of business activities and global operations of business on children's rights regardless whether the CO was adopted before or after the adoption of GC 16 (April 17<sup>th</sup> 2013).

The 65 countries selected were grouped according to the traditional UN division of the world in 5 regions. The result of this selection process resulted in CO's for 65 different countries from the following regions:

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<sup>33</sup> UN Committee on the Rights of the Child General Comment N° 5 (2003): General measures of implementation of the Convention on the Rights of the Child, paragraph 42

<sup>34</sup> *Ibid*, paragraph 43

a) In Southern and Eastern Asia:

The last CO's of Bangladesh (2015), Bhutan (2017), China (2013), India (2014), Japan (2019), Maldives (2016), Mongolia (2017), Republic of Korea (2012) and Sri-Lanka (2018).

b) In South and Central America:

The last CO's of Argentina (2018), Brazil (2015), Chile (2015), Colombia (2015), Costa Rica (2011), Ecuador (2017), Guatemala (2018), Guyana (2013), Mexico (2015), Nicaragua (2010), Panama (2018) and Peru (2016).

c) In Northern Africa and Western Asia

The last CO's of Bahrain (2019), Egypt (2011), Kuwait (2013), Morocco (2014), Qatar (2017) and United Arab Emirates (2015).

d) In Sub-Saharan Africa:

The last CO's of Angola (2018), Cameroon (2017), Congo (2014), Democratic Republic of the Congo (2017), Ethiopia (2015), Ghana (2015), Kenya (2016), Liberia (2012), Madagascar (2012), Malawi (2017), Mauritania (2018), Namibia (2012), Nigeria (2010), Sao Tome (2013), Senegal (2016), South Africa (2016), Togo (2012) and Zambia (2016).

e) In Europe:

The last CO's of Azerbaijan (2012), Belarus (2011), Belgium (2019), Bosnia and Herzegovina (2012), Finland (2011), France (2016), Georgia (2017), Germany (2014), Great Britain and Northern Ireland (2016), Ireland (2016), Italy (2019), Kazakhstan (2015), Malta (2013), Monaco (2013), Poland (2015), Romania (2017), Russia (2014), Spain (2018), Switzerland (2015), The Netherlands (2015) and Turkey (2012).

Finally, a selection of 3 specific cases<sup>35</sup> will be used as examples to analyse to what extent the extraterritorial standard was considered by the CRC Committee in the respective.

## 1.5 Outline

Following the present introduction, Chapter 2 presents and explains in detail the international legal framework related to the interaction between children's rights and global operations of business. Chapter 3 provides a comparative analysis of the approach adopted by the CRC Committee in the CO's in the 65 selected countries regarding the impact of global operation of business on children's rights. Chapter 4 moves into the practicality of the reporting procedure, analysing in three cases how the extraterritorial standard addressed in light of GC 16. Chapter 5 concludes.

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<sup>35</sup> The selected cases are: i) the oil pollution in the Niger Delta, ii) the garment industry in Bangladesh, and iii) the cocoa industry in Ghana

## 2. Children's Rights and Global Operations of Business

### 2.1 International legal framework

For international human rights standards, international children rights law formally born with the adoption of the CRC in 1989. However, like Kikelly and Liefwaard points out it had occurred with the benefit of the nonbinding Declarations on the Rights of the Child adopted by the League of Nations in 1924 and the newly formed United Nations in 1959<sup>36</sup> and a long advocacy movement during the 20<sup>th</sup> Century. The CRC is almost a universal international treaty<sup>37</sup> with binding obligations assumed by 196 States Parties. According to Arts, one of the most tangible achievements stimulated by the Convention is law reform<sup>38</sup> provoking a worldwide law reform in compliance with the provisions of the CRC. This ongoing reform is monitored by the CRC Committee, based in Geneva – Switzerland.

It is true that historically the business sector always played a strong role in all societies worldwide affecting all persons including children. In the case of the multinational enterprises, referred in GC 16 as global operations of business, the pattern remains. Muchlinski explained that the modern era of this type of business enterprises started in about the middle of the 19<sup>th</sup> Century and can be divided in four periods<sup>39</sup>: (i) the first one began with the emergence of the earliest internationally integrated, privately owned manufacturing firms until the outbreak of the First World War, (ii) the second one was the period between the I and the outbreak of the II World War (1918-1939), (iv) the third period since the end of the II World War in 1945 and encompasses the rise of foreign direct investments by multinational enterprises to current levels and continued until 1990. This period was dominated in its first phase (until 1960) by the American multinational enterprises and in its second phase (1960-1990) appeared competitors from other part of the globe like Europe, Japan, China, the former Soviet Union and the socialist countries of the Eastern Europe who in the 1980's moved away from the traditional prohibitions on direct investments by foreign firms, and (iv) the fourth period since 1990 onwards can be distinguished by the adoption of real global production chains in goods and services with major regional trade and investment liberalization regimes. The quest to negotiate a legally binding international instrument to regulate business operations of transnational corporations has been continuing for over four decades<sup>40</sup>.

At this point it is important to remark that the evolution of the children rights movement, with its milestone year in 1989 (adoption of the CRC), share the same evolution time line as the evolution of the global operations of business as we know them today. This coexistence was not just a coincidence because it influenced the evolution of the legal framework related to the impact of the global operations of business on children's rights. Even though the transnational business enterprises do not have direct obligations related with the fulfilment of the rights of the child written in any international treaty, a holistic analysis of the children rights framework<sup>41</sup> including hard and soft law shows that concerns about the impact of this private actors are not new in the international discourse.

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<sup>36</sup> U. Kikelly and T. Liefwaard, *International Children's Rights: Reflections on a Complex, Dynamic, and Relatively Young Area of Law*, in T. Liefwaard and U. Kikelly (eds), *International Human Rights of Children*, Springer 2018, at 2.

<sup>37</sup> 196 countries are States Parties. The United States of America only signed the CRC.

<sup>38</sup> K. Arts, *Twenty-Five Years of the UN Convention on the Rights of the Child: Achievements and Challenges*, *Netherlands International Law Review*, 2014, at 270.

<sup>39</sup> See 12, *supra*, at 9 to 10.

<sup>40</sup> Černič, Jernej Letnar, and Nicolás Carrillo Santarelli. *The Future of Business and Human Rights: Theoretical and Practical Considerations for a UN Treaty*. 2018. Web, at 30.

<sup>41</sup> Considered part of the international human rights system.

### 2.1.1 The CRC and the global operations of business

Children's rights are universal, indivisible, interdependent and interrelated<sup>42</sup> and despite its universal ratification of the CRC, the main challenge for the States is the full implementation of its provision in the domestic level. However, as Kikelly and Liefwaard say "the reach of multinational corporations presents genuine challenges to children rights implementations"<sup>43</sup>

Revising all the text of the CRC it can be noticed that the business sector is not expressly mentioned. In that sense, is the business sector out of the scope of the CRC? The answer is no, and the key provision to sustain this answer is in the Article 4 of the CRC

#### Article 4

*States Parties shall undertake **all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention.** With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, **within the framework of international co-operation.** (emphasis added)*

The full implications of the provision raised in Article 4 of the CRC was developed in detail by the CRC Committee in its General Comment N° 5 (2003) entitled "*General measures of implementation of the Convention on the Rights of the Child*" (GC 5). One should always take into account the historical context of each CRC General Comment. It is not a coincidence that Section D of the GC 5 was entirely dedicated to the phenomenon of privatization in relation with the fulfilment of the rights of the child considering the fourth period of evolution which multinational enterprises had, as it was explained by Muchlinski<sup>44</sup>.

The position of the CRC Committee is that States Parties have the legal obligation to respect and ensure all rights stipulated in the CRC which includes "the obligation to ensure that non-State service providers operate in accordance with its provisions, thus creating indirect obligations on such actors"<sup>45</sup>. Rishmawi explains that this arrangement has been acknowledged by the CRC Committee in its CO's, requesting States Parties to *identify the amount and proportion of State budget spent on children in the public, private and NGO sectors*<sup>46</sup>.

The business sector, considered by the CRC Committee under the definition of non-State service providers, is bounded with the fulfilment of the rights of the child. Considering the wide range of activities executed by business around the globe it would be difficult to provide an exhausted list of activities and the rights of the child affected by them. The CRC Committee has identified four CRC general principles as the basis of all State decisions and actions related to business activities and operations in conformity with a child rights approach<sup>47</sup>: the right to non-discrimination, the best interest of the child, the right to life, survival and development and the right of the child to be heard.

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<sup>42</sup> GC 16, paragraph 12

<sup>43</sup> See 36, *supra*, at 3.

<sup>44</sup> Refer to Section 2.1. of this thesis, at 8.

<sup>45</sup> GC 5, paragraph 43

<sup>46</sup> Rishmawi, Mervat. Article 4 the Nature of States Parties' Obligations. Leiden: Martinus Nijhoff, 2006. Commentary on the United Nations Convention on the Rights of the Child, at 32.

<sup>47</sup> GC 16, paragraph 12

- The right to non-discrimination (CRC)

Abramson summarizes the right to non-discrimination as follows: Article 2.1 forbids State to (i) treat the right-holder differently from other person or persons (a) on the basis of the right-holder's membership in a named category (race, sex, etc) (b) in respect to some specific interest, (ii) if that differential treatment will impair the right-holder's enjoyment of that interest, as compared to other person's or person's enjoyment of the same interest, and (iii) the interest is protected by another right in the CRC (*i.e.*, a sectorial right)<sup>48</sup>. The cited author proposes that the right to non-discrimination can be abbreviated as: (i) differential treatment on a forbidden ground, (ii) injury, and (iii) protected interests<sup>49</sup>. Also, the right to non-discrimination can be considered as an absolute right, because its redaction under Article 2.1 of the CRC does not contain any balancing element<sup>50</sup>.

In relation to business activities, the CRC Committee established that "States must ensure that all legislation, policies and programmes that deal with business issues are not intentionally or unintentionally discriminatory towards children in their content or implementation"<sup>51</sup> and "States should also take steps to create a supportive environment for business to respect the right to protection from discrimination by promoting knowledge and understanding of the right within the business sector, including the media, marketing and advertising sectors"<sup>52</sup>.

The CRC provision takes particular relevance in the context of global operations of business and children's rights, because according to Forbes the home States of the top 20 multinationals are located in developed countries<sup>53</sup> and it is largely known that most of them have direct relations with subsidiaries, contractors, suppliers and joint ventures in developing countries (host states). Home states own the economic power and host states are responsible to build legislation, policies and programs in their countries where children could be victims of different types of discrimination by foreign economic interests, undermining the enjoyment of their rights.

- The best interest of the child (CRC)

According to Freeman, the best interests' concept is indeterminate and there are different conceptions of what is in a child's best interests. Different societies, different historical periods will not agree<sup>54</sup>. One of the major debates during the first 24 years after the adoption of the CRC was the discussion about the precise content and practicalities of the best interest of the child. To clarify this situation and also to provide more detailed guidance to the CRC States Parties about this topic, the CRC Committee adopted in 2013 the General Comment

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<sup>48</sup> Abramson, Bruce, Article 2: The Right of Non-discrimination in: A. Alen e.a. (eds.) Commentary on the United Nations Convention on the Rights of the Child. Leiden: Nijhoff, 2008, at 29

<sup>49</sup> *Id.*, at 29

<sup>50</sup> *See* 48, *supra*, at 40.

<sup>51</sup> UN GC 16, paragraph 13

<sup>52</sup> *Id.*, paragraph 14.

<sup>53</sup> According to Forbes, the home State of the top 10 multinational performers are United Kingdom, Singapore, United States, Netherlands, Denmark, Switzerland, Taiwan, Belgium, Ireland and Sweden.

<sup>54</sup> Freeman, Michael D. A. A Commentary on the United Nations Convention on the Rights of the Child, Article 3: The Best Interests of the Child. Leiden: BRILL, 2007, at 27

N° 14 entitled *on the right of the child to have his or her best interest taken as a primary consideration* (GC 14).

The GC 14 underlined that the child's best interest is a threefold concept:

- (i) a substantive right: assessed and taken as a primary consideration,
- (ii) a fundamental interpretative legal principle: if a legal provision is open to more than one interpretation, the most effective one to the child's best interest should be chosen, and
- (iii) a rule of procedure: whenever a decision is to be made to and individual or group of children, the decision-making process must include an evaluation of the possible impact (positive or negative) on the child<sup>55</sup>.

In the context of the State Parties obligations regarding the impact of the business sector on the rights of the child, it is important to note that the GC 16 was adopted in some, same year of GC 14. For that reason, the CRC Committee incorporated under Section D of GC 16 the rules of the *child-rights impact assessments*<sup>56</sup>: States must, at minimum, use the framework of the CRC and the Optional Protocols thereto, as well as relevant concluding observations and general comments issued by the Committee. A broader impact assessment of business-related policy, legislation or administrative practices they should ensure that it is aligned with the CRC and its Optional Protocols and have special regard for the differentiated impact on children of the measures under consideration<sup>57</sup>.

The same child-rights impact assessment detailed above should be addressed in the context of global operation of business considering its condition of sub-category under the general definition of business activity listed by the GC 16<sup>58</sup>.

- The right to life, survival and development (CRC)

Even though the structure of Article 6 is divided in two numerals (6.1 for the right of the child to life and 6.2 for the right of the child to survival and development), the right to life needs to be interpreted in a comprehensive manner. Nowak explains that the approach to the right to life should be positive in the sense of State obligations to ensure the survival and development of the child by the adoption of *positive measures* in connection with other rights and principles established in the CRC like the best interest of the child, the rights to health, an adequate standard of living and education<sup>59</sup>.

This comprehensive approach was developed by the CRC Committee in its GC 5, explaining that their expectation from States Parties is a broad interpretation of the concept of "development", as a holistic concept, embracing the child's physical, mental, spiritual, moral,

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<sup>55</sup> GC 16, paragraph 6

<sup>56</sup> GC 16, paragraph 78-80

<sup>57</sup> UN Committee on the Rights of the Child General Comment N° 14 (2013): on the right of the child to have his or her best interest taken as a primary consideration, paragraph 99

<sup>58</sup> GC 16, paragraph 32.

<sup>59</sup> Nowak, Manfred. Article 6 the Right to Life, Survival, and Development. Leiden; Boston: Martinus Nijhoff, 2005. Commentary on the United Nations Convention on the Rights of the Child, at 14

psychological and social development<sup>60</sup> having as a goal the optimal development of all children.

GC 16 make specific mentions about the impact that activities and operations of business could have in the realization of article 6. To give an example, the CRC Committee explains how environmental degradation and contamination arising from business activities can compromise children's rise to health, food, security and access to safe drinking water sanitation<sup>61</sup>. Contrasting this example with the ranking of top 20 multinationals elaborated by Forbes<sup>62</sup> the number one multinational located in the United Kingdom belongs to the industry of diversified metals and mining, meaning that its suppliers comes from one or more host countries which could be dealing with issues as those mentioned by the CRC Committee in the GC 16.

- The right of the child to be heard (CRC)

This right is part of the new arrangements concerning the role attributed to the child in society and its fundamental for their empowerment as right holders. However, the right to be heard is often lost in a wider concept: that of participation<sup>63</sup>. According to Vučković-Šahović and others, there are two components to the notion of participation: (i) the first is the *right to be heard* and understood *stricto sensu*, which is enshrined in Article 12, and (ii) the *right to participate*, which is broader and corresponds to the idea that the child, as an actor in his life and member of a family, community and State, must take an active part in family and social life. Article 12 is pertinent to this principle in conjunction with articles concerning civil rights and freedoms.

This right considered as one of the four general principles of the CRC merited a specific CRC Committee General Comment. The General Comment N° 12 (2009) *the right of the child to be heard* (GC 12) emphasized the CRC provision that children have the right to be heard in any judicial and administrative proceeding affecting them, and the GC 16 explained, in the context of business activities, that this rights includes judicial proceedings and mechanisms of conciliation and arbitration that concerns abuses of children's rights caused or contributed by business enterprises<sup>64</sup>.

An effective fulfilment of the right of the child to be heard (and participate) it is still a challenge in all the world. In the context of the business activities, the consultation procedure to native or indigenous communities before the action of international business activities like the gas or oil industry in their ancestry lands have been developed in regions like Latin America but, the effective participation of children is still a challenge and it should be promoted by States according with the GC 16 paragraph 23. This is just one example, and the same approach should be replicated to every business activity which could potentially affect the rights of the child.

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<sup>60</sup> GC 5, paragraph 12

<sup>61</sup> GC 16, paragraph 19

<sup>62</sup> Forbes Top Multinational list. Web <https://www.forbes.com/top-multinational-performers/list/#tab:rank> (last accessed 27-06-2019)

<sup>63</sup> Vučković-Šahović, Nevena; Doek, J.E.; Zermatten, Jean. *The Rights of the Child in International Law: Rights of the Child in a Nutshell and in Context: All about Children's Rights*. Bern: Stämpfli, 2012. Print.

<sup>64</sup> GC 16, paragraph 22

## 2.2 CRC General Comment N° 16

### 2.2.1 Background and drafting process

#### *Background*

On September 20th 2002, the CRC Committee held its 31st session and devoted its day of discussion to “the private sector as service provider and its role in implementing children’s rights”. At the opening of the session, the former Chairperson of the CRC Committee pointed out that “*the theme of the Day of Discussion does not naturally flow from the Convention on the Rights of the Child, as it is States that are parties to the Convention. He said that nevertheless, realities on the ground are different. In this context, he emphasized that while the Committee welcomed the role of non-state actors, including NGOs and businesses, it was increasingly concerned at the growing trend of privatization, including in the provision of services addressing basic needs including health, education and water. He underlined that these developments gave rise to a lot of questions which are difficult and complex and had not yet been fully addressed*”<sup>65</sup>.

23 State’s Permanent Missions to the United Nations Office at Geneva<sup>66</sup>, United Nations entities and specialized agencies<sup>67</sup>, representatives of Non-Governmental Organizations, businesses, independent organizations and academics participated on the Day of General Discussion. All the participants were divided in two working groups. One of them concentrated heavily on the business sector and the responsibility of the State in regulating and monitoring its operations.

After the day of discussion, the CRC Committee adopted a recommendation structured in (i) legal obligations, (ii) recommendations to States Parties, and (iii) recommendations to non-state service providers. The following ones are the most important ones in regarding children’s rights and global operations of business:

#### (i) Legal obligations

*Recommendation 6: The Committee recognizes that responsibilities to respect and ensure the rights of children extend beyond the State, including individuals, parents, legal guardians, and other non-state actors. In this context, the Committee refers to General Comment 14 of the Committee on Economic, Social and Cultural Rights on the right to the highest attainable standard of health, paragraph 42 which states that “While only States are parties to the Covenant and are thus ultimately accountable for compliance with it, all members of society – individuals, including health professionals, families, local communities, intergovernmental and non-governmental organizations, civil society organizations, as well as the private business sector – have responsibilities regarding the realization of the right to health. State parties should therefore provide an environment which facilitates the discharge of these responsibilities.”*

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<sup>65</sup> UN CRC Committee Day of General Discussion held in September 20th 2002 as part of its 31<sup>st</sup> Session: <https://www.ohchr.org/Documents/HRBodies/CRC/Discussions/Recommendations/Recommendations2002.pdf> (last accessed 27-06-2019)

<sup>66</sup> Bangladesh, Chile, Canada, Costa Rica, Cote d’Ivoire, Czech Republic, Egypt, Estonia, Germany, Ghana, Jordan, Libyan Arab Jamahiriya, Luxembourg, Madagascar, Nigeria, Pakistan, Slovenia, Sri Lanka, Switzerland, Syrian Arab Republic, Turkey and United Arab Emirates.

<sup>67</sup> International Labour Organization (ILO), United Nations Population Fund (UNFPA), United Nations Children’s Fund (UNICEF), World Bank and World Health Organization (WHO).

(ii) Recommendations to States Parties

*Recommendation 8: The Committee recommends that State parties take appropriate legislative measures and establish a permanent monitoring mechanism aimed at ensuring that non-state service providers respect the relevant principles and provisions of the Convention, especially article 4. In particular, all service providers must incorporate and apply to their programmes and services all relevant provisions of the Convention, as well as each of the four general principles set out in the provisions concerning non-discrimination (art.2), the best interests of the child (art. 3), the right to life survival and development (art. 6), and the right of the child to express his or her views freely, and have those views be given due weight in accordance with the age and maturity of the child (art. 12).*

(iii) Recommendations to non-state service providers

*Recommendation 17: The Committee encourages non-state service providers to ensure that service provision is carried out in accordance with international standards, especially the Convention. It further encourages non-state service providers to develop self-regulation mechanisms which would include a system of checks and balances.*

In 2005, the United Nations Human Rights Commission adopted the Resolution 2005/69 approving request of the Commission to the Secretary-General to appoint a special representative on the issue of human rights and transnational corporations and other business enterprises<sup>68</sup>. The person leading this important mandate was Professor John Ruggie who successfully finished his work in 2011 with the adoption of the UN Guiding Principles on Business and Human Rights (2011 GP)<sup>69</sup>. Even though this document is not a child centred one, it is an instrument designed in line with the aim of the protection of human rights and children should not be considered as a specific group excluded to the general human rights scope.

In the General Principles of the 2011 GP it is clarified that the recommendations of the document apply to all States and to all business enterprises, both transnational and others, regardless of their size, sector, location, ownership and structure<sup>70</sup>. The 2011 GP established that its content is grounded in recognition of:

- (a) *States' existing obligations to respect, protect and fulfil human rights and fundamental freedoms;*
- (b) *The role of business enterprises as specialized organs of society performing specialized functions, required to comply with all applicable laws and to respect human rights;*
- (c) *The need for rights and obligations to be matched to appropriate and effective remedies when breached.*

It is important to take into consideration that after the adoption of the 2011 GP, the CRC Committee used the standard lines mentioned above to evaluate the States obligation regarding

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<sup>68</sup> United Nations Commission on Human Rights, Human Rights Resolution 2005/69, Human Rights and transnational corporations and other business enterprises, UN Doc. E/CN.4/RES/2005/69, 20 April 2005.

<sup>69</sup> John Ruggie, UN Human Rights Council. Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises.

<sup>70</sup> UN Guiding Principles on Business and Human Rights, implementing the United Nations "Protect, Respect and Remedy" framework (2011). HR/PUB/11/04, at 1

the impact of business activities in the rights of the child. In the CO's adopted in the period between 2011-2013 (before the adoption of the GC 16) some CO's made express reference to the 2011 GP, this is a clear example of how a guideline designed under the international human rights system helped the CRC Committee for the evaluation of States' periodic reports.

Before the adoption of the GC 16, the issues related with the impact of business activities on the rights of the child was also in the agenda of the civil society outside the UN Treaty Bodies. For that reason, in 2012 Save the Children, UNICEF and the UN Global Compact published *The Children's rights and Business Principles*, defined as a range of actions that all business should take to respect children rights, and to prevent and address any adverse impact on children's human rights<sup>71</sup>. This document can be defined as an open non-legal binding call to all business enterprises to respect the rights of the child in light of the provisions of the CRC, resumed in 10 recommended actions:

1. Meet their responsibility to respect children's rights and commit to supporting the human rights of children.
2. Contribute to the elimination of child labour, including in all business activities and business relationships.
3. Provide decent work for young workers, parents and caregivers.
4. Ensure the protection and safety of children in all business activities and facilities.
5. Ensure that products and services are safe, and seek to support children's rights through them.
6. Use marketing and advertising that respect and support children's rights.
7. Respect and support children's rights in relation to the environment and to land acquisition and use.
8. Respect and support children's rights in security arrangements.
9. Help protect children affected by emergencies.
10. Reinforce community and government efforts to protect and fulfil children's rights.

### *The Drafting Process*

Gerber and others<sup>72</sup> explain that the GC 16 undertook an extensive process of consultation involving three broad stages:

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<sup>71</sup> UNICEF, The Global Compact & Save The Children. *Children's Rights and Business Principles*.

<sup>72</sup> Gerber, Paula, Kyriakakis, Joanna, & O'Byrne, Katie. (2013). General Comment 16 on state obligations regarding the impact of the business sector on children's rights: What is its standing, meaning and effect? *Melbourne Journal of International Law*, 14(1), at 104.

- First stage: the CRC Committee prepared an annotated outline of the proposed text of the GC 16 as a result of the experience of the CRC Committee in reviewing State Parties' reports and its day of general discussion on the private sector as service provider in 2002<sup>73</sup>.
- Second stage: between March and May 2012 the CRC Committee made an open call for submissions on the annotated outline, available for organizations and individuals. At this stage, twenty-eight submissions were published from NGOs, universities and individuals. All these documents were considered by the CRC Committee in the production of the draft version of the GC 16.
- Third stage: in this last stage the CRC Committee received submissions from the academics, UN specialized bodies and non-government organizations<sup>74</sup>. Special mention requires the document *Children and Adolescent's Contributions to the draft General Comment on Child Rights and Business Sector*, published by Save the Children. This document, in line with Article 12 of the CRC, represents an effective participation of children from different parts of the world like Argentina, Bangladesh, Costa Rica, Kenya, Paraguay, Sudan and Tanzania in the drafting process of GC 16<sup>75</sup>.

Finally, in February 2013 the CRC Committee adopted the GC 16 in its sixty-second session.

### 2.2.2 General Comment N° 16: Core obligations

The GC 16 is a soft law instrument, it means that its statements and provisions are not enforceable to the CRC State Parties. However, the current globalized nature of economies and the universal ratification of the CRC put this CRC General Comment in a special spot of interest for the international community. As Gerber and others say, "its significance goes beyond a mere technical recommendation to states on how to meet their obligations under the Convention and its protocols, functioning instead as an authoritative source of interpretation of international law informed by the treaty bodies' expertise with states' reports and by wide-ranging consultation with stakeholders"<sup>76</sup>.

GC 16 describes that the obligations of the CRC States Parties regarding the impact of business activities on children's rights are structured under the three types of obligations recognized in international human rights law (to respect, to protect and to fulfil) following this rule: "*States are not relieved of their obligations under the Convention and the Optional Protocols thereto when their functions are delegated or outsourced to a private business or non-profit organization. A State will thereby be in breach of its obligations under the Convention where it fails to respect, protect and fulfil children's rights in relation to business activities and operations that impact on children*"<sup>77</sup>.

In 2015, the International Commission of Jurist and UNICEF attending a request of the CRC Committee elaborated the publication *Obligations and Actions on Children's Rights and Business*

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<sup>73</sup> See 65, *supra*

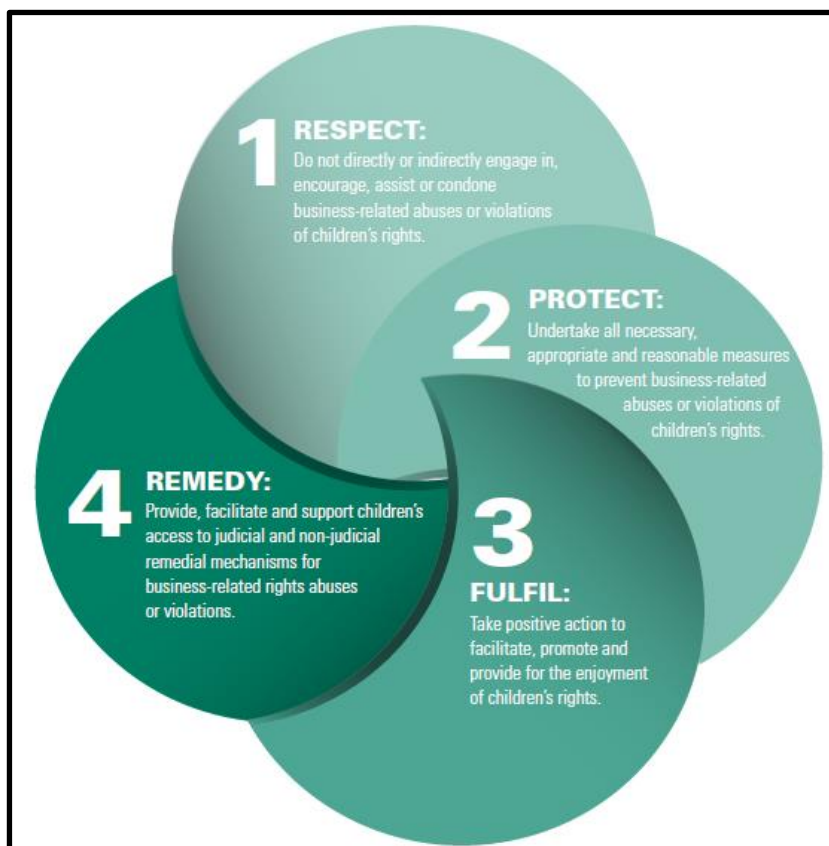
<sup>74</sup> The complete list of contributions are available at the UN Business & Human Rights Resource Centre <https://www.business-humanrights.org/en/un-general-comment> (last accessed 27-06-2019)

<sup>75</sup> Wilson, Jason. Save the Children Sweden. Doing good work for us children: Children and Adolescent's Contributions to the draft General Comment on Child Rights and Business Sector (2012), at 2

<sup>76</sup> See 72, *supra*, at 127.

<sup>77</sup> GC 16, paragraph 25.

– A practical guide for States on how to implement the United Nations Committee on the Rights of the Child’s General Comment No. 16 in this document the following diagram summarise the core obligations for States under the scope of GC 16<sup>78</sup>:



### 2.2.3 Children’s rights and global operations of business in GC 16

GC 16 considers the interaction between children’s rights and global operations of business as a specific context where business activities impact on children’s rights (positive or negative) through complex networks of subsidiaries, contractors, suppliers and joint ventures<sup>79</sup>, involving more than one jurisdiction. This child centred instrument developed specific standards considering the potential difficulties that children.

Under this particular context, the CRC Committee makes quite clear in GC16 that States have the obligation to respect and ensure children rights within their jurisdiction<sup>80</sup>. In other words, the States Parties jurisdiction is not limited by the concept of territory. This is not the first time that the CRC Committee raised this standard. Previously, in its General Comment N° 6 (2005) entitled *Treatment of unaccompanied and separated children outside their country of origin* the CRC Committee established that “State obligations cannot be arbitrarily and unilaterally curtailed either

<sup>78</sup> International Commission, UNICEF. Obligations and Actions on Children’s Rights and Business – A practical guide for States on how to implement the United Nations Committee on the Rights of the Child’s General Comment No. 16 (2015), at 13.

<sup>79</sup> GC 16, paragraph 38.

<sup>80</sup> GC 16, paragraph 39.

by excluding zones or areas from a State's territory or by defining particular zones or areas as not, or only partly, under the jurisdiction of the State"<sup>81</sup>.

The gaps between the international human rights system (which includes CRC provisions) and their implementation in a globalized world are point of concern also into Civil Society and Academics. Reason why in 2011 a group of experts led by the Maastricht University and the International Commission of Jurist adopted the *Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights*<sup>82</sup>, also known as Maastricht Principles:

1. All human beings everywhere are born free and equal in dignity and are entitled without discrimination to human rights and freedoms.
2. States must at all times observe the principles of non-discrimination, equality, including gender equality, transparency and accountability.
3. All States have obligations to respect, protect and fulfil human rights, including civil, cultural, economic, political and social rights, both within their territories and extraterritorially.
4. Each State has the obligation to realize economic, social and cultural rights, for all persons within its territory, to the maximum of its ability. All States also have extraterritorial obligations to respect, protect and fulfil economic, social and cultural rights as set forth in the following Principles.
5. All human rights are universal, indivisible, interdependent, interrelated and of equal importance. The present Principles elaborate extraterritorial obligations in relation to economic, social and cultural rights, without excluding their applicability to other human rights, including civil and political rights.
6. Economic, social and cultural rights and the corresponding territorial and extraterritorial obligations are contained in the sources of international human rights law, including the Charter of the United Nations; the Universal Declaration of Human Rights; the International Covenant on Economic, Social and Cultural Rights; and other universal and regional instruments.
7. Everyone has the right to informed participation in decisions which affect their human rights. States should consult with relevant national mechanisms, including parliaments, and civil society, in the design and implementation of policies and measures relevant to their obligations in relation to economic, social and cultural rights.

The principles detailed above do not oppose the standards adopted in GC 16. Moreover, the CRC Committee based their criteria to determine the *reasonable link* (between home States and host States) in the context of children's rights and global operations of business in the Maastricht Principles<sup>83</sup>.

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<sup>81</sup> UN General Comment N° 6, paragraph 12

<sup>82</sup> ETOs for Human rights beyond borders. Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights. (2013), at 6

<sup>83</sup> GC 16, paragraph 43.

### 2.3 Concluding Remarks

This chapter had presented how the CRC Committee incorporated the impact of global operations of business on the fulfilment of the rights of the child. The evidence of this approach is the adoption of the General Comment N° 16 (2013) *on State obligations regarding the impact of the business sector on children's rights*. Even though the mentioned document plays an explanatory role of the CRC provisions with no enforceable nature, it is an authoritative instrument to understand and monitor the role of the CRC States Parties regarding the global operations of business.

### 3. The global operations of business and the CRC State reporting procedure

#### 3.1 Overview

The main method of monitoring compliance with human rights treaty obligations is the process of State reporting, which is contained in all core human rights treaties at the international level<sup>84</sup>. The CRC is not the exception and Part II of this international human rights treaty (Articles 43 to 45) provide for an implementation system on the international level performed by the Committee on the Rights of the Child<sup>85</sup> based in Geneva – Switzerland. The CRC Committee members are supposed to be experts in one or other field of children’s rights, such as law, education, or child psychology<sup>86</sup> which composition follows the mandate established in the Article 43.2 of the CRC.

Since 1991 the CRC Committee have been dealing with reporting procedures (initial and periodic), obligation for all 196 States parties. In order to facilitate this procedure, in the same year the CRC Committee elaborated a list of specific themes of clusters for the initial<sup>87</sup> and periodic reports<sup>88</sup>. The last revised version under which States Parties should elaborate their written periodic reports was adopted in 2015 under the name *Treaty-specific guidelines regarding the form and content of periodic reports to be submitted by States parties under article 44, paragraph 1 (b), of the Convention on the Rights of the Child* (CRC Committee Guidelines) explaining in its Section B that States reports should contain information according to the “clusters” of rights established by the Committee<sup>89</sup>:

1. General Measures of Implementation;
2. Definition of a Child;
3. General Principles;
4. Civil Rights and Freedoms;
5. Violence against Children;
6. Family Environment and Alternative Care;
7. Disability, Basic Health, and Welfare;
8. Education, Leisure, and Cultural Activities;
9. Special Measures of Protection;

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<sup>84</sup> Boersma, Martine. *Corruption: A Violation of Human Rights and a Crime under International Law?* Cambridge: Intersentia, 2012, at 104

<sup>85</sup> See 31, *supra*, at 2.

<sup>86</sup> Kilkelly, Liefwaard, Kilkelly, Ursula, and Liefwaard, Ton. *International Human Rights of Children*. 2019, at 33

<sup>87</sup> CRC Committee General Guidelines regarding the form and content of initial reports to be submitted by States Parties under Article 44, paragraph 1(a) of the Convention (1991). CRC/C/5

<sup>88</sup> CRC Committee General Guidelines regarding the form and content of periodic reports to be submitted by States Parties under Article 44, paragraph 1(b) of the Convention (1996). CRC/C/58

<sup>89</sup> CRC Committee Treaty-specific guidelines regarding the form and content of periodic reports to be submitted by States parties under article 44, paragraph 1 (b), of the Convention on the Rights of the Child. CRC/C/58/Rev.3

10. Follow-up to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution, and child pornography; and
11. Follow-up to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

The CRC Committee incorporated the impact of business activities on the rights of the child as a specific solicitude to States Parties for their periodic reports in 2010, in the second revised version of its guidelines<sup>90</sup>, as part of cluster number one: general measures of implementation. The actual CRC Committee Guidelines adopted in 2015 maintains the impact of business activities into cluster number one with two clear and specific requirements:

1. *General measures of implementation (arts. 4, 42 and 44, para. 6, of the Convention)*

(...)

*20. Under this cluster, States parties should provide information on whether the activities of business corporations (extractive, pharmaceutical, agro-industry, among others) that are likely to affect the enjoyment by children of their rights are evaluated, and whether measures are taken to investigate, adjudicate, repair and regulate the impacts.*

*21. Under this cluster, States parties should also take into account the Committee's general comments No. 2 (2002) on the role of independent national human rights institutions in the promotion and protection of the rights of the child; No. 5 (2003) on general measures of implementation of the Convention on the Rights of the Child; and No. 16 (2013) on State obligations regarding the impact of the business sector on children's rights.*

The CO's adopted by the CRC Committee are the final result of every periodic reporting cycle, according with the rules established by the United Nations Human Rights Treaty System, summarized as follows<sup>91</sup>: (i) the CRC Committee presents to the State party a list of issues and questions based on concerns raised by the report (at this stage the Committee could receive input from other UN agencies, NHROs and NGOs), (ii) then the State party may submit written replies to the list of issues and questions, (iii) hereafter takes place the constructive dialogue between the State party delegation and the CRC Committee, and (iv) finally, the CRC Committee adopt the respective Concluding Observation after a private meeting. Like Verheyde and Geert explains, the CO's "underline the positive developments that have been noted to have taken place during the period under review. At the same time, they indicate the topics that require a special follow-up; which makes the concluding observation the basis for the discussion of the reports that follow"<sup>92</sup>.

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<sup>90</sup> CRC Committee General Guidelines regarding the form and content of periodic reports to be submitted by States Parties under Article 44, paragraph 1(b) of the Convention (2010). CRC/C/58/Rev.2

<sup>91</sup> UN Office of the United Nations High Commissioner for Human Rights. The United Nations Human Rights Treaty System: An Introduction to the Core Human Rights Treaties and the Treaty Bodies. Fact Sheet N° 30, at 20.

<sup>92</sup> See 31, *supra*, paragraph 43.


3.2 Business activities and the extraterritorial standard in the CRC CO’s

At this point, it is important to highlight that even though this standard was explained by GC 16 in 2013, the topic was a real concern for the CRC Committee more than a decade before. There are two clear evidences about it: the first one is the 2002 CRC Committee Day of General Discussion entitled “the private sector as service provider and its role in implementing children’s rights”<sup>93</sup>, and the second one is the CRC Committee approach used during the reporting cycle of the States Parties. For example, in the 2012 CO to the Republic of Korea the CRC Committee recommended the State to “*further promote the adoption of effective corporate responsibility models by providing a legislative framework that requires companies domiciled in Korea to adopt measures to prevent and mitigate adverse human rights impacts in their operations in the country and abroad, whether by their supply chains or associates*”<sup>94</sup>, also in the 2011 CO to Bahrain the CRC Committee recommended the State to “*establish a regulatory framework for the activities of Bahrain private corporations, including multinational corporations domiciled in Bahrain, regarding their impact on child rights, and provide for appropriate national institutions and mechanisms to address cases of non-compliance, including extraterritorially, by Bahrain multinational enterprises*”<sup>95</sup>.



Actually, taking into consideration the last CO’s adopted in the period 2010-2019<sup>96</sup> the following business activities were a matter of concern by the CRC Committee: agriculture, alcohol industry, banks, brick industry, chemical industry, child jockeys, coal industry, cocoa industry, construction industry, cotton industry, diamond industry, electric industry, entertaining industry, extractive industry, farming industry, fishing industry, food industry, fossil fuel, garment industry, gas industry, hydroelectric projects, large scale sporting, logging / forestall industry, manufacturing industry, media industry, mining industry, oil sector, palm oil industry, pharmaceutical industry, private education providers, private institutions running orphanages, rubber industry, security services, soy trading, steel industry, tea plantation, telecommunications, timber industry, tobacco industry, tourist industry, transport and uranium industry<sup>97</sup>. It is necessary to remark that the mentioned list consider both business activities at the domestic or international level because in the majority of the cases the CRC Committee do not make that differentiation.




To obtain a detailed overview of how the CRC Committee had considered the role of the business sector and the global operations of business in its CO’s, the author presents the main concerns and recommendations raised by the CRC Committee in its last CO’s during the period 2010-2019 through the following regional charts designed and completed under the methodology described in the first part of the present thesis<sup>98</sup>:

- *Southern and Eastern Asia*

<b>Bangladesh (2015)</b>		After GC16	CRC/C/BGD/CO/5 [p.31 and 75]
The CRC Committee raised it concerns about the negative effects of business activities on the rights of the child, especially child labour taking into consideration that this issue occurs also in the informal			

<sup>93</sup> Refer to Section 2.2.1 of this thesis, at 13.  
<sup>94</sup> CRC CO Republic of Korea 02 February 2012, UN Doc CRC/C/KOR/CO/3-4, paragraph 27  
<sup>95</sup> CRC CO Bahrain 03 August 2011, UN Doc CRC/C/BHR/CO/2-3, paragraph 21  
<sup>96</sup> Refer to Section 1.4.2 of this thesis, at 6.  
<sup>97</sup> Information obtained from the most recent CRC Committee CO’s.  
<sup>98</sup> Refer to Section 1.4.2 of this thesis, at 6.

sector and family businesses. The call to the State is to enforce its national legislation against child labour in line with the international standards. This CO makes specific mention to the garment industry, after the report of cases of children dying in the childcare facilities of garment factories.			
<b>Bhutan</b> (2017)		After GC16	CRC/C/BTN/CO/3-5 [p13 and 46]
In light of GC 16, the CRC Committee recommends the State to formulate regulations to ensure that private education providers and the tourism industry complies with international and national human rights standards with regard to children's rights. Special recommendations were adopted to promote awareness-raising campaigns on the prevention of child sex tourism and domestic measures to face child exploitation in substance agriculture, workshops, meat shops, domestic work and the informal sector.			
<b>China</b> (2013)		After GC16	CRC/C/CHN/CO/3-4 [p.24 and 85]
The CRC Committee shows its concern about a case of lead poisoning in mainland China, recommending the State to follow the provisions of GC 16 and ensure that the business sector complies with international and national human rights, labour, environment and other standards, particularly as regards child rights (tackle the involvement of children in hazardous work and the worst forms of child labour in the mining, manufacturing and brick industries) and prevention of child exploitation, including those cases which occur through abduction and sale of children by criminal gangs by the establishment of extraterritorial jurisdiction over the offences detailed in Article 3.1 of the CRC Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography.			
<b>India</b> (2014)		After GC16	CRC/C/IND/CO/3-4 [p.29 and 30]
In light of GC 16 the CRC Committee recommends the State party to ensure that the business sector complies with international and national human rights including those related to children, showing a particular concern about the forced displacement of a large number of children and their families and the loss of their ancestral lands because of manufacturing operations, giving two examples: the area of POSCO steel plant and the port facilities in the state of Odisha.			
<b>Japan</b> (2019)		After GC 16	CRC/C/JPN/CO/4-5 [p.15]
The CRC Committee recommends to the State to take into consideration, when developing its national action plan on business and human rights, a child rights approach requiring a periodic child-rights impact assessment fully disclosed and public. Also, to consider for the implementation of the regulations for the business sector the provisions of the GC 16. This CO took special interest in the tourist and entertainment industry where the State needs to develop preventive interventions against sexual exploitation of children.			
<b>Maldives</b> (2016)		After GC16	CRC/C/MDV/CO/4-5 [p.20 and 21]
In the State the tourist industry constitutes the main pillar of the State's economy (beaches, safari boats and guesthouses). For that reason, in light of GC 16 the CRC Committee recommends the State to examine and adapt its legislative framework to ensure the legal accountability of business enterprises and their subsidiaries operating in or managed from the State party's territory in order to prevent child sex tourism. One specific recommendation is to strengthen international cooperation strategies through multilateral, regional and bilateral arrangements to identify sex offenders who cross the State's borders.			

<b>Mongolia (2017)</b>		After GC16	CRC/C/MNG/CO/5 [p.13 and 14]
The CRC Committee shows special concern about the lack of regulation of business enterprises affecting the rights of the child, including the extractive industry, recommending appropriate legislation according to the provisions of GC 16. Other matter of serious concern is the prevalence of conflicts of interest between official duties and the private interests of those in public service roles, the recommending appropriate measures and an effective enforcement of the Law on Regulating Public and Private Interest in Public Service and Preventing Conflicts of Interest.			
<b>Republic of Korea (2012)</b>		Before GC 16	CRC/C/KOR/CO/3-4 [p26 and 27]
The CRC Committee recognizes the Republic of Korea as one of the most dynamic economies in the world and welcomed the increasing interest of the State in the business sector. The committee notes that there is no comprehensive legislative framework to regulate the prevention and mitigation of adverse human rights impacts of companies either in the State or abroad, recommending the adoption of effective corporate responsibility models considering the companies with operations in the State and abroad with a specific assessment on the impacts of their activities on the rights of the child. The CRC Committee recommends human rights assessment (which includes children rights) as a priority in the negotiation of free trade agreements.			
<b>Sri Lanka (2018)</b>		After GC16	CRC/C/LKA/CO/5-6 [p.13]
Taking into consideration the standard adopted in the GC 16, the CRC Committee notes concern in the negative impact of the following domestic and foreign business activities in the rights of the child: tea plantations, construction, textile and tourist industry. For that reason, the committee recommends a clear regulatory framework for domestic and foreign companies, aware-raising campaigns targeting the tourist industry to prevent child exploitation reinforcing the technical capacities to the authorities who deal with this type of cases.			

The ranking of the top 20 richest countries of the world elaborated by Investopedia<sup>99</sup> (based on their nominal gross domestic product - GDP) shows that four powerful economies are located in this region: China, India, Japan and The Republic of Korea. The mentioned States coexist with middle and low-income ones, situation that is not far from having effects on the rights of the child. Using the terminology of GC 16, this region contains Home and Host States who share the obligation to protect, respect and fulfil the rights of all children.

These elements were taken into consideration by the CRC Committee during the States reporting cycles as it was presented in the chart above. However, it does not mean that the final text of its recommendations could not be improved, in order to provide more clarity about the States obligations regarding the global operations of business.

To give an example, in the CRC Committee CO to Bangladesh the prevalence of child labour into the garment industry was mentioned<sup>100</sup>. However, only taking into consideration the text of the CO it could be understood that is it a domestic situation which needs to be attended by Bangladesh. But, as UNICEF pointed out in a research about the garment industry in Bangladesh “*since its rapid expansion in the late 1970s, Bangladesh has become the second largest exporter of garments in the world – after China.*”

<sup>99</sup> Silver Caleb, Top 20 Economies in the World. Investopedia, updated to June 7<sup>th</sup> 2019 <https://www.investopedia.com/insights/worlds-top-economies/> (last accessed 27-06-2019)

<sup>100</sup> CRC CO Bangladesh 30 October 2015, UN Doc CRC/C/BGD/CO/5, paragraph 31 and 75







Today, the industry's estimated 3,500 export-oriented factories are believed to either directly or indirectly support the livelihoods of more than 25 million people, particularly women and children<sup>101</sup>. This means that the garment industry in Bangladesh is part of an economic network related to a home state outside the country, in other words is part of a global operation of business. This specification could apparently be a detail, but in fact changes not only the view, also the consideration of main actors who need to comply the CRC obligations. A more specific recommendation was adopted in the case of the Republic of Korea<sup>102</sup>, were the Committee was explicit about the role the State regarding responsibilities of the multinational enterprises in the impact of its operations in the rights of children abroad.




The CO to Korea<sup>103</sup> was the only one in the region adopted before GC 16. However, the CRC Committee addressed concerns to States considering the GC obligations to both Home and Host State of multinational enterprises. The adoption of the GC 16 facilitated the elaboration of recommendations to the CRC Committee. The formula adopted by the Committee was to follow the general reference to GC 16 with an area of special concern (i.e. the mining industry in China<sup>104</sup>, the tourist industry in Maldives<sup>105</sup> and the tea plantation industry in Sri Lanka<sup>106</sup>).

- South and Central America

CRC Concluding Observations			
<b>Argentina</b> (2018)		After GC 16	CRC/C/ARG/CO/5-6 [p.13]
The CRC Committee recommends the State, in light of GC 16, to establish a legally binding framework for domestic and foreign businesses ensuring that they are accountable and their activities do not affect children rights in a negative way.			
<b>Brazil</b> (2015)		After GC 16	CRC/C/BRA/CO/2-4 [p.22 and 80]
The CRC Committee recommends the State to establish a regulatory framework according to the provisions of GC 16 with an emphasis in some business activities matter of special concern: the mining sector, the construction industry, agribusiness, large-scale sporting or entertainment events and agribusiness and food enterprises. The Committee points out the special vulnerability of the indigenous children affected by logging and industrial projects in their communities, recommending the State to take immediate measures to guarantee their safety against violent attacks.			
<b>Chile</b> (2015)		After GC 16	CRC/C/CHL/CO/4-5 [p.20 and 21]
In light to the GC 16, the CRC Committee makes a general call for the State to ensure that the business sector complies with the international human rights framework. However, makes a special remark about private businesses operating in the country in the extractive and industrial field,			

<sup>101</sup> UNICEF, The Ready-Made Garment Sector and Children in Bangladesh (2015), at 3  
<sup>102</sup> CRC CO Republic of Korea 02 February 2012, UN Doc CRC/C/BGD/CO/5, paragraph 26 and 27  
<sup>103</sup> *Id.*  
<sup>104</sup> CRC CO China 29 October 2013, UN Doc CRC/C/CHN/CO/3-4, paragraph 24  
<sup>105</sup> CRC CO Maldives 14 March 2016, UN Doc CRC/C/MDV/CO/4-5, paragraph 21  
<sup>106</sup> CRC CO Sri Lanka 02 March 2018, UN Doc CRC/C/LKA/CO/5-6, paragraph 13

recommending the State to adopt a clear regulatory framework monitoring the children’s rights impact with a specific plan to address them.			
<b>Colombia</b> (2015)		After GC 16	CRC/C/COL/CO/4-5 [p.17 and 18]
There are two activities conducted by business enterprises of special concern by the CRC Committee: the mining and the tourism sectors. In the case of the mining sector points out the rights of children affected by the coal mining activities in El Hatillo. The CRC Committee using the GC16 as a reference, call the State to adapt its legislative framework to ensure the accountability of business enterprises and their subsidiaries operating in or managed from the State party’s territory.			
<b>Costa Rica</b> (2011)		Before GC 16	CRC/C/CRI/CO/4 [p.25 and 26]
The CRC Committee after noting positively the State’s law to promote corporate social responsibility in the tourist industry to eradicate the sexual exploitation of children, shows its concern regarding the impact of other activities like the mining industry as one with a high foreign investment. The Committee urged the State to extend the domestic regulation of the tourism sector to other business activities where the rights of children could be affected.			
<b>Ecuador</b> (2017)		After GC 16	CRC/C/ECU/CO/5-6 [p.15]
Making explicit reference to GC 16, the CRC Committee recommends the State to establish a clear regulatory framework regarding the impact on the rights of children of the following business activities: the oil and the mineral sector. Considering the nature of the mentioned activities, the Committee recommend to take special consideration to the violation of the rights of the Afro-Ecuadorian communities, especially children.			
<b>Guatemala</b> (2018)		After GC 16	CRC/C/GTM/CO/5-6 [p.12]
The CRC Committee acknowledge the adoption of the Guatemalan system of protected areas and its institutional framework concerning the business sector, in particular the extractive industries. In that sense, following the standard adopted in the GC 16, the Committee recommend to strength the Guatemalan regulatory framework regarding children’s rights and business among: small and medium-sized enterprises, the extractive industry, energy, agriculture and tourism industries as well as the informal economy.			
<b>Guyana</b> (2013)		After GC 16	CRC/C/GUY/CO/2-4 [p.22]
The CRC Committee notes the high dependence of national State’s economy in the timber industries. The Committee shows its concern about the absence of a legislative framework to protect human rights, including children rights, from the negative impact of the mentioned industry owned by different types of industries: foreign and national private enterprises and State-owned companies. The Committee recommend the State to stablish a regulatory framework for the impact of business activities, in particular with regard to the following activities: timber industry, extractive industry and fisheries projects.			
<b>Mexico</b> (2015)		After GC 16	CRC/C/MEX/CO/4-5 [p.51, 63 and 70]
The CRC Committee recommends the prohibition of bullfighting and associated performances as a worst form of child labour. Also, under the right of all children to live under the highest standard of health recommends the State to take sufficient measures to address air, water, soil and			

electromagnetic pollution which particularly affects indigenous children in the State of Sonora. The Committee recommendation is to adapt the existing legislative framework to making business enterprises accountable if they provoke negative environmental impacts. Other activities matter of concern by the Committee are: agriculture and the tourism industry.			
<b>Nicaragua (2010)</b>		Before GC 16	CRC/C/NIC/CO/4 [p.30 and 31]
The CRC Committee raises its concern about the absence of regulations or policies regarding the impact of some business activities on the rights of the child, like: the mining industry, agro-industry and other large-scale operations. The Committee recommends the State to study the adoption of clauses on the rights of the child in the negotiation investment treaties with multinational corporations and foreign governments.			
<b>Panama (2018)</b>		After GC 16	CRC/C/PAN/CO/5-6 [p. 14]
In light of GC 16, the CRC Committee recommends the State to take measures regarding the displacement of children and their families affected by the construction of the Rio Blanco Dam on the Tasabará River. Also, the application of a child rights approach in the following activities: electric industry, mining, agro-industrial, tourism (to prevent child sexual exploitation), banks and other investment projects both to enterprises with intervention in the country or abroad.			
<b>Peru (2016)</b>		After GC 16	CRC/C/PER/CO/4-5 [p.23 and 24]
The CRC Committee points out its concern about the negative impact of mining and hydroelectric projects in different regions around the country like La Oroya, Cerro the Pasco and Cajamarca where children and their families suffered displacement, health hazards and environmental degradation. The Committee recommends the adoption of the standards of the GC 16 with special considerations for indigenous children who should take active part during the consultation and decision-making process.			

According to the Investopedia<sup>107</sup> ranking, Brazil and Mexico are the only two countries in the region in the list of the richest economies of the world. This indicator shows that the majority of countries in this region are middle and low-income countries. However, the role of this region is transcendental in the context of the global operations of business because an important amount primary resources comes from these countries.

Contrasting the fact that mineral exportation is one of the biggest supports of national economies in this region with the CO's recommendations, it can be assumed that multinational enterprises with operations in the extractive and mining industry are present at least in the following countries: Brazil, Chile, Colombia, Ecuador, Guatemala, Nicaragua, Panama and Peru. The CO's of this region shows how the adoption of GC 16 don't limit the possibility to raise concerns about specific situations. i.e. the mining activities in El Hatillo (Colombia<sup>108</sup>), environmental pollution in the State of Sonora (Mexico<sup>109</sup>), displacement of families due to the construction of the Rio Blanco Dam (Panama<sup>110</sup>) and mining and hydroelectric projects in Peru<sup>111</sup>.

<sup>107</sup> Silver Caleb, Top 20 Economies in the World. Investopedia, updated to June 7<sup>th</sup> 2019  
<https://www.investopedia.com/insights/worlds-top-economies/> (last accessed 27-06-2019)







<sup>108</sup> CRC CO Colombia 06 March 2015, UN Doc CRC/C/COL/CO/4-5, paragraphs 17 and 18

<sup>109</sup> CRC CO Mexico 03 July 2015, UN Doc CRC/C/MEX/CO/4-5, paragraph 51

<sup>110</sup> CRC CO Panama 28 February 2018, UN Doc CRC/C/PAN/CO/5-6, paragraph 14





<sup>111</sup> CRC CO Peru 02 March 2016, UN Doc CRC/C/PER/CO/4-5, paragraphs 23 and 24

- Northern Africa and Western Asia







CRC Concluding Observations			
<b>Bahrain</b> (2019)		After GC 16	CRC/C/BHR/CO/4-6 [p.14]
Having GC 16 as a reference, the CRC Committee recommends the State to establish and implement regulations to endure that the business sector, including multinationals domiciled in the country complies with international standards in relations to children's rights under a clear regulatory framework.			
<b>Egypt</b> (2011)		Before GC 16	CRC/C/EGY/CO/3-4 [p.31]
The CRC Committee encourages the State to adopt policies and programs to protect the impact of the business sector regarding human rights, especially children rights, taking into consideration the results of the visit of the UN Special Representative of the Secretary General on the issue of human rights and transnational corporations and other business enterprises.			
<b>Kuwait</b> (2013)		After GC 16	CRC/C/KWT/CO/2 [p.23 and 24]
In light of GC 16 the CRC Committee recommends the State to ensure that the business sector complies with national and international standards regarding human rights, labour, environmental and other issues. A special concern was expressed about environmental issues like: (i) the contamination of the water in the residential areas of Mishref and Sabah Al-Salem in 2002, (ii) the spilling of large quantities of untreated water into the sea in 2009, (iii) the exposure of the residential area of Ali Sabah-Salem to air pollution caused by industries and oil refineries, with the lack of relocation of families living in the mentioned areas.			
<b>Morocco</b> (2014)		After GC 16	CRC/C/MAR/CO/3-4 [p.22 and 23]
The CRC Committee recommends the State to examine and adapt in light of GC 16 its legislative Framework concerning the legal accountability of business enterprises and their subsidiaries operating or managed from the country, especially in the tourism industry (to prevent child sex tourism), considering the fact that the tourism industry constitutes one of the main pillar of the State's economy.			
<b>Qatar</b> (2017)		After GC 16	CRC/C/QAT/CO/3-4 [p.10]
The CRC Committee notes the development of the Qatari corporate social responsibility standards but remarks the absence of a child perspective. For that reason, the Committee recommends the State to formulate and implement regulations under a child rights approach.			
<b>United Arab Emirates</b> (2015)		After GC 16	CRC/C/ARE/CO/2 [p.55 and 56]
Considering the right of the child to the highest standard of health, the CRC Committee recommends the State to assess the negative consequences of the high consumption of petroleum on children's health through polluted air and lead poisoning.			








This region, also known as the MENA Region owns a combination of countries living in conflict like Libya, the Syrian Arab Republic and Yemen coexisting with other countries which are living economic and social reforms like Bahrain, Egypt and Saudi Arabia. It is a region rich in natural resources and according to the 2018 World Bank economic overlook the “oil exporters will significantly benefit from higher oil prices and external oil demand that will likely remain high, as well as domestic reforms. Oil importers are expected to benefit from reforms, rising trade with the Europe and China, and financial inflows from MENA oil exporters”<sup>112</sup>. For that reason, the listed CO’s applied the GC 16 extraterritorial standard in order to make recommendations about the effect of the oil industry.


- Sub Saharan Africa

CRC Concluding Observations			
<b>Angola (2018)</b>		After GC 16	CRC/C/AGO/CO/5-7 [p.14]
The CRC Committee recommends the State to implement regulations to ensure the business sector according to the international standards and a clear regulatory framework for the following business activities: oil, gas, diamond, fishing and farming industries; adapting its legislative framework to ensure the legal accountability of companies and their subsidiaries operating in or managed from the country.			
<b>Cameroon (2017)</b>		After GC 16	CRC/C/CMR/CO/3-5 [p.12]
According to the standards of the GC 16, the CRC Committee recommends to establish a regulatory framework to deal with the negative impact of business activities, particularly transnational corporations involved in the extractive and agribusiness sectors which forced the displacement of communities and minority groups, contamination of water and environmental degradation in the country.			
<b>Congo (2014)</b>		After GC 16	CRC/C/COG/CO/2-4 [p.26 and 27]
The CRC Committee notes with satisfaction the existence of concession contract clauses that provide the adoption of measures to protect the rights to health and education of children living in the areas of industrial activity. However, these clauses are specific agreement not part of a national law. In accordance to GC 16, the Committee recommends the State to establish a clear regulatory framework regarding the impact of business activities on children rights followed by an effective strategy of implementation by the companies involved in industrial activities.			
<b>Democratic Republic of the Congo (2017)</b>		After GC 16	CRC/C/COD/CO/3-5 [p.14 and 42]
Given the fact that extractive industries cause destruction in lands, ecosystems and livelihoods of families, the CRC Committee recommends the establishment of a clear regulatory framework to the extractive industries operating in the State in light of GC 16. The Committee also emphasises how these industries are affecting in a negative way a large number of indigenous children, victims of exploitation under extremely hazardous conditions mainly in the east part of the country.			

<sup>112</sup> The World Bank. Middle East and Northern Africa <https://www.worldbank.org/en/region/mena/overview> (last accessed 27-06-2019)

<b>Ethiopia (2015)</b>		After GC 16	CRC/C/ETH/CO/4-5 [p.21 and 22]
<p>The CRC Committee shows its concern about the forced relocation of indigenous families as part of agricultural planning strategies and investments. For that reason, taking into consideration GC16 the Committee recommends the State to prevent and halt all relocations plans which do not enjoy the consent of the affected population (families with children) and also to develop and implement comprehensive frameworks on business conducts.</p>			
<b>Ghana (2015)</b>		After GC 16	CRC/C/GHA/CO/3-5 [p.19 and 20]
<p>In light of GC 16, the CRC Committee recommends the State to establish clear regulations for national and international corporations executing activities in the country, after noting that the private investment of the cocoa, mining and fishing industry does not generate direct benefits to the local communities with reports of harmful consequences for the local children like child labour and exposure to harmful practises.</p>			
<b>Kenya (2016)</b>		After GC 16	CRC/C/KEN/CO/3-5 [p.19 and 20]
<p>The CRC Committee recommends the State to use the GC 16 to face three main concerns related with the negative impact of business activities on children rights: (a) illegal acquisition of public lands, including the premises of public schools, by private individuals and business enterprises, (b) illegal dumping of toxic wastes and other forms of environmental pollution, which have a serious impact on children's health, and (c) wide prevalence of child labour, including the commercial sexual exploitation of children, and human trafficking for child labour.</p>			
<b>Liberia (2012)</b>		Before GC 16	CRC/C/LBR/CO/2-4 [p.29 and 75]
<p>The CRC Committee regrets how multinational companies operating in the rubber and steel producing industries are affecting children under the absence of a clear regulatory framework to ensure international human rights and other labour and environmental standards. Also, raise its voice against the negative impact of the forced relocation of families and communities in mining areas. The absence of regulation allows child labour in almost all sector of the local economy.</p>			
<b>Madagascar (2012)</b>		Before GC 16	CRC/C/MDG/CO/3-4 [p.21]
<p>The CRC Committee recommends the State to stablish and implement regulations to ensure that the business sector complies with international and domestic standards. The economic activities responsibility of both national and international corporations reported as the most harmful to children in the country are: the mining sector, the extractive and forestry industries, the tourism sector. The negative effects to children consider harm to the environment, economic exploitation of children and sex tourism.</p>			
<b>Malawi (2017)</b>		After GC 16	CRC/C/MWI/CO/3-5 [p.12]
<p>Using the GC 16 as a reference, the CRC Committee recommends the State to include its provisions in the draft mines and minerals bill in order to consider a child rights impact assessment in every mining project, especially in mining regions as Karonga district and Kayelekera, in order to prevent future violations of children rights.</p>			



<b>Mauritania</b> (2018)		After GC 16	CRC/C/MRT/CO/3-5 [p.14]
The CRC Committee recommends the State to establish a clear framework for all the industries operating in the country in light of GC 16, in particular the fishing, agriculture and extractive industries. This adapting process should ensure the legal accountability of companies and their subsidiaries operating from the State's territory, especially in the mining industry.			
<b>Namibia</b> (2012)		Before GC 16	CRC/C/NAM/CO/2-3 [p.26]
Considering the State is a member of the International Atomic Energy Agency, the CRC Committee notes special concern regarding the uranium activities led by multinational and national corporations outside of a clear regulation ensuring them to comply with international and national human rights standards, inter alia, environmental and health standards.			
<b>Nigeria</b> (2010)		Before GC 16	CRC/C/NGA/CO/3-4 [p.46]
The CRC Committee reports a big concern about the environmental degradation and widespread pollution in the Niger Delta as a result of the oil industry operating in the area with negative impact in the standard of living of children. The recommendation of the Committee to the State is to take immediate measures to address the emergency and also work with the business sector in order to increase the knowledge of the community about environmental issues, including children.			
<b>Sao Tome</b> (2013)		After GC 16	CRC/C/STP/CO/2-4 [p.23 and 24]
In light of GC 16, the CRC Committee recommends to the State to establish clear regulatory frameworks for all business, in particular to the extractive and the cocoa industry, ensuring effective implementation by the companies operating in the country.			
<b>Senegal</b> (2016)		After GC 16	CRC/C/SEN/CO/3-5 [p.19 and 20]
The CRC Committee shows its concerns regarding the negative impact of the following activities in the rights of children: tourism industry, mining and fishing industry where they are exposed to child labour and exposure to harmful substances. The Committee recommends clear regulations in light of the provisions of the GC16.			
<b>South Africa</b> (2016)		After GC 16	CRC/C/ZAF/CO/2 [p.19 and 20]
The concern of the CRC Committee is focused in the business enterprises operating in the country in the extractive industry, with negative impacts on the rights of the child including environmental pollution and child labour. To comply the international standards the Committee recommends to implement the standard described in GC16.			
<b>Togo</b> (2012)		Before GC 16	CRC/C/TGO/CO/3-4 [p. 28]
Despite the fact that the CRC Committee notes as a positive action the adoption of a domestic law concerning the contribution of mining companies to local development, the concern of the Committee is focused in the absence of provisions to protect children rights in accordance with international standards. The Committee recommends the adoption of an effective legislative framework, requiring corporate responsibility models to prevent adverse human rights impacts including their supply chain or associates.			

<b>Zambia (2016)</b>		After GC 16	CRC/C/ZMB/CO/2-4 [p.21 and 22]
The CRC Committee recommends the State to implement a clear regulatory framework for the mining industries operating in the county, in particular the activities of lead mining in Kabwe, according to the provisions of the GC 16.			

This region has similarities with the South and Central America region, due to the large amount of Host States under the context of global operations of business. The CO's in this region is quite reiterative about raising awareness related to the GC 16 provisions. The CRC Committee diverse terminology to refer to the global operations of business like multinationals<sup>113</sup>, transnational corporations<sup>114</sup>, international corporations<sup>115</sup>, multinationals<sup>116</sup>, subsidiaries<sup>117</sup> and supply chain associates<sup>118</sup> in the following countries: Angola, Cameroon, Ghana, Liberia, Madagascar, Mauritania, Namibia, Nigeria, and Togo. The industries matter of concern by the CRC Committee in this region are: oil, gas, diamond, fishing, agro-business, cocoa, rubber, steel forestry, tourism and energetic (uranium) industry.

It is important to remark that even though the CO's to Liberia (2012), Namibia (2012), Nigeria (2010), Sao Tome (2013) and Togo (2012) were adopted before GC 16, the CRC Committee addressed issues regarding the negative impact of global operations of business. The advantage of a direct reference to GC 16 is that it constitutes a base line which regularly is complemented with the national context of the State.

- *Europe*

CRC Concluding Observations			
<b>Azerbaijan (2012)</b>		Before GC 16	CRC/C/AZE/CO/3-4 [p. 29]
The CRC Committee recommends the State to take legislative and institutional measures to ensure that the business sector respects child rights, in particular those companies involved in the extractive and cotton producing industries mitigating negative impacts in the same country or abroad.			
<b>Belarus (2011)</b>		Before GC 16	CRC/C/BLR/CO/3-4 [p.25]
The CRC Committee recommends the State to ensure that the business sector complies with international and domestic standards on corporate social responsibility under the standards elaborated by the United Nations.			

<sup>113</sup> CRC CO Liberia 13 December 2012, UN Doc CRC/C/LBR/CO/2-4, paragraph 29 and 75







<sup>114</sup> CRC CO Cameroon 06 July 2017, UN Doc CRC/C/CMR/CO/3-5, paragraph 12

<sup>115</sup> CRC CO Ghana 04 June 2015, UN Doc CRC/C/GHA/CO/3-5, paragraph 19 and 21, and CRC CO Madagascar 08 March 2012, UN Doc CRC/C/MDG/CO/3-4, paragraph 21








<sup>116</sup> CRC CO Liberia 13 December 2012, UN Doc CRC/C/LBR/CO/2-4, paragraph 29, CRC CO Namibia 16 January 2012, UN Doc CRC/C/NAM/CO/2-3, paragraph 26, and CRC CO Nigeria 21 October 2010, UN Doc CRC/C/NGA/CO/3-4, paragraph 46







<sup>117</sup> CRC CO Mauritania 26 November 2018, UN Doc CRC/C/MRT/CO/3-5, paragraph 14

<sup>118</sup> CRC CO Togo 08 March 2012, UN Doc CRC/C/TGO/CO/3-4, paragraph 28

<b>Belgium (2019)</b>		Before GC 16	CRC/C/BEL/CO/3-4 [p.14]
The CRC Committee welcomes the efforts to develop a national plan for business and human rights, recommending the establishment and implementation of those regulations in light of the standards of GC 16.			
<b>Bosnia and Herzegovina (2012)</b>		Before GC 16	CRC/C/BIH/CO/2-4 [p.27 and 28]
The CRC Committee shows its concern about the absence of clear regulation frameworks for multinational and national companies in the steel producing industry and the security-related sector, with environmental and health consequences to children. The Committee recommends the State to include in the contracts with the business activities mentioned above adequate regulatory safeguards to ensure the compliance with the CRC and its Optional Protocols.			
<b>Finland (2011)</b>		Before GC 16	CRC/C/FIN/CO/4 [p.23 and 24]
The CRC Committee regrets the no prohibition of direct or indirect use of child labour by companies domiciled in Finland, as well as no restrictions for business to import or sell goods produced using child labour. The Committee recommends an adequate legal framework with an effective monitoring of the enterprises supply chains.			
<b>France (2016)</b>		After GC 16	CRC/C/FRA/CO/5 [p.21 and 22]
The CRC Committee notes that some French multinational companies have voluntary corporate social responsibility practices for their foreign subsidiaries. However, the Committee is particularly concerned about cases in which subsidiaries of French companies have directly contributed to the violation of children's rights, including activities conducted by rubber companies in Cambodia. The Committee recommends a clear regulatory framework for all industries operating under its jurisdiction to ensure the fulfilment of the rights of the child in light of GC 16.			
<b>Georgia (2017)</b>		After GC 16	CRC/C/GEO/CO/4 [p.14]
The CRC Committee recommends the State to adapt its legislative framework to ensure the legal accountability of business enterprises and their subsidiaries operating in or managed from the State party's territory, especially in the tourism industry, in light of GC 16 and the concerns raised by the Special Rapporteur on the sale of children, child prostitution and child pornography <sup>119</sup> .			
<b>Germany (2014)</b>		After GC 16	CRC/C/DEU/CO/3-4 [p.22 and 23]
The CRC Committee notes that the country uses a significant amount of coal to produce power, which emissions have negative impacts on children's health at the domestic level. The Committee also shows its concern about the lack of adequate measures taken against German companies that conduct business abroad and reportedly violate children's rights and other human rights. In light of GC 16 the State received the recommendation of examine and adapt its legislative framework to ensure that business enterprises and their subsidiaries operating in or managed from German territory are legally accountable for any violation of children's rights and human rights.			

<sup>119</sup> UN Special Rapporteur on the sale of children, child prostitution and child pornography A/HRC/34/55/Add.1, paras. 30 and 76

<b>Great Britain and Northern Ireland</b> (2016)		After GC 16	CRC/C/GBR/CO/5 [p.19]
The CRC Committee recommends the State Party to integrate an explicit child-rights due diligence in the revised version of its first National Action Plan on Business and Human Rights in light of the standard elaborated by the Committee in its GC 16.			
<b>Ireland</b> (2016)		After GC 16	CRC/C/IRL/CO/3-4 [p.23 and 24]
Even though the CRC Committee welcomes the outline of a national action plan on business and human rights for the period 2016-2019, the concern is that it does not contain any firm commitment to the rights of the child and has not adequately taken into account GC 16. The main recommendation of the Committee is to strengthen its regulatory framework in light of the international and national standards, especially in the field of potential environmental and health consequences.			
<b>Italy</b> (2019)		After GC 16	CRC/C/ITA/CO/5-6 [p.37]
The CRC Committee recommends the State to develop more aware-raising campaigns with the tourism industry for the prevention of sexual exploitation of children in the context of travel and tourism.			
<b>Kazakhstan</b> (2015)		After GC 16	CRC/C/KAZ/CO/4 [p.18 and 19]
The CRC Committee is concern about the lack of regulation of the enterprise's corporate social responsibilities, in particular their extractive activities. For that reason, in light of GC 16 the Committee recommends the State to establish a clear regulatory framework for the industries operating in the country regarding potential negatives environmental and human rights effects.			
<b>Malta</b> (2013)		After GC 16	CRC/C/MLT/CO/2 [p.25]
The CRC Committee recommends the State to examine and adapt its legislative framework to ensure the legal accountability of business enterprises and their subsidiaries operating in or managed from the country, especially in the tourism industry, regarding abuses to child (child sex tourism) and human rights.			
<b>Monaco</b> (2013)		After GC 16	CRC/C/MCO/CO/2-3 [p.20 and 21]
The CRC Committee notes that in the State is possible to file criminal complaints against business enterprises that do not ensure child-rights due diligence in their supply chain. However, there is not clarity about the enterprises responsibilities of their operations carried out outside their territory. For this reason, the Committee recommends in light of GC 16 the application of a child-rights due diligence in their supply chain including those which involve suppliers and customers outside the country.			
<b>Poland</b> (2015)		After GC 16	CRC/C/POL/CO/3-4 [p.59]
In light of GC 16, the CRC Committee recommends the State to undertake research on the extent and root causes of the impact of child sex tourism and adapt its legislative framework ensuring the legal accountability of business enterprises and their subsidiaries operating in or managed from the country, especially in the tourism industry.			

<b>Romania (2017)</b>		After GC 16	CRC/C/ROU/CO/5 [p.23]
The CRC Committee, in light of GC 16 recommends the State to protect children from harmful information, harmful products and online risks to guarantee the right of all children to have access to appropriate information, including those who live in remote and rural areas.			
<b>Russia (2014)</b>		After GC 16	CRC/C/RUS/CO/4-5 [p.21]
The CRC Committee recommends to the state to establish a clear regulatory framework for the oil and gas industries and coal-extraction business operating in the State. Also, in light of GC 16 recommends the State to ensure that industrial companies comply with international and national environmental and health standards.			
<b>Spain (2018)</b>		After GC 16	CRC/C/ESP/CO/5-6 [p.12]
In light of GC 16 the CRC Committee welcomes the approval of the national action plan on business and human rights. However, the Committee recommends the State to promote the adoption of human rights parameters (which includes children's rights) for the foreign and domestic operation of Spanish corporations and other business subject to their jurisdiction.			
<b>Switzerland (2015)</b>		After GC 16	CRC/C/CHE/CO/2-4 [p.22 and 23]
The CRC Committee is concern about the strategies developed by the State, which relies on a voluntary self-regulation regarding the impact of its operation on the rights of children. For that reason, in light of GC 16 the Committee recommends the State to ensure that business enterprises and their subsidiaries operating in or managed from the State party's territory are legally accountable for any violations of children's rights and human rights.			
<b>The Netherlands (2015)</b>		After GC 16	CRC/C/NLD/CO/4 [p. 22 and 23]
The CRC Committee is concern about the activities of some Dutch business activities abroad its territory, particularly about reports that companies related to the palm oil and soy industry are affecting the rights of children. Also, the case of the oil extracting industry in Nigeria and the Barro Blanco Dam construction in Panama is matter of concern by the Committee. For that reason, in light of GC 16 the Committee recommends the State to establish a clear regulatory framework and to ensure its effective implementation by all the enterprises both at home and with economic activity abroad.			
<b>Turkey (2011)</b>		Before GC 16	CRC/C/TUR/CO/2-3 [p. 22 and 23]
The CRC Committee recommends the State to investigate the negative impact of the Ilisu and other construction projects on child rights, provoking family forced evictions, resettlement and displacement, impacting their cultural heritage and environment.			

Europe is the region where, according to Forbes<sup>120</sup>, 16 of the top 20 multinationals performers are located<sup>121</sup> (Home States). Under the GC 16 extraterritorial standard, Europe is the region with major number of Home States. According to The World Bank, the “*economic growth in the European Union (EU) is increasingly solid, both in terms of its pace and composition. The European economy has*

<sup>120</sup> See 62, *supra*. Forbes Top Multinational List

<sup>121</sup> United Kingdom, The Netherlands, Denmark, Switzerland, Belgium, Ireland and Sweden.

*entered its fifth year of recovery, which is now reaching all EU Member States. Private consumption remains the main driver of growth”.*

It is important to reiterate that under the GC 16 extraterritorial standard, Host States have the primary responsibility to respect, protect and fulfil children’s rights in their jurisdictions<sup>122</sup> and Home States should ensure that there are effective mechanisms in place so that the government agencies and institutions with responsibility for implementation of the CRC and its Optional Protocols thereto coordinate effectively with those responsible for trade and investment abroad<sup>123</sup>.

The fact that most of the Home States are located in Europe does not mean that there are not specific issues to face regarding the impact of global operations of business on European children. As the CO’s stands, countries like Azerbaijan<sup>124</sup>, Bosnia and Herzegovina<sup>125</sup>, Georgia<sup>126</sup>, Germany<sup>127</sup>, Italy<sup>128</sup>, Malta<sup>129</sup> and Poland<sup>130</sup> have specific challenges regarding the negative impact of the following business activities: cotton, extractive, steel, security-related, tourism and coal industries.

### 3.3 Concluding remarks

From the initial list of CO’s<sup>131</sup> in the five regions considered for the aim of this thesis, 65 (53.6%) raised concerns about the negative impact of global operations of business on children’s rights, in light of GC16. Even though this issue was raised by the CRC Committee before GC 16 in some CO’s<sup>132</sup>, GC 16 constitutes now the technical reference of interpretation of the CRC Committee which allows it to go deeper in specific concerns and recommendations regarding the States obligations to multinational enterprises.

As it was detailed in the regional charts in this chapter, the CRC Committee applies extraterritorial standard taking into consideration the particular context of each State Party under its position of Home or Host State in the context of the global operations of business.

Under the UN Human Rights Treaty System, the concerns considered in the CO’S depends on: i) the information provided by the States, UN agencies, NHROs, NGOs and other organizations related to this matter, and ii) the proactive research of the CRC Committee members during the reporting cycle. Both aspects could be improved in order to raise the quantity and quality of recommendations related to the impact of the multinational enterprises on children’s rights.

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<sup>122</sup> GC 16, paragraph 42.

<sup>123</sup> GC 16, paragraph 46.

<sup>124</sup> CRC CO Azerbaijan 12 March 2012, UN Doc CRC/C/AZE/CO/3-4, paragraph 29

<sup>125</sup> CRC CO Bosnia and Herzegovina 29 November 2012, UN Doc CRC/C/BIH/CO/2-4, paragraph 27-28

<sup>126</sup> CRC CO Georgia 09 March 2017, UN Doc CRC/C/GEO/CO/4, paragraph 14

<sup>127</sup> CRC CO Germany 25 February 2014, UN Doc CRC/C/DEU/CO/3-4, paragraph 22-23

<sup>128</sup> CRC CO Italy 28 February 2019, UN Doc CRC/C/ITA/CO/5-6, paragraph 37

<sup>129</sup> CRC CO Malta 18 June 2013, UN Doc CRC/C/MLT/CO/2, paragraph 25

<sup>130</sup> CRC CO Poland 30 October 2015, UN Doc CRC/C/POL/CO/3-4, paragraph 59

<sup>131</sup> Full list of CO’s attached as Annex I

<sup>132</sup> CO’s to Korea (2012), Nicaragua (2010), Liberia (2012), Madagascar (2012), Azerbaijan (2012), Finland and Turkey (2012)

## 4. Extraterritorial obligations approach of the CRC Committee in practise

### 4.1 Overview

The CRC CO's like its general comments contain the view of the CRC Committee – which can be considered as the most authoritative body monitoring the Convention – as a whole<sup>133</sup>. The recommendations placed in each CO are the result of the evaluation of the information provided by the State and the inputs of UN agencies, NHRs and NGOs.

The aim of this chapter is to understand the reasons why three reported cases were taken into consideration by the CRC Committee and to what extent the CO's contribute to a real change based on the CRC provisions. The three selected cases are related to negative impacts on the rights of children consequence of global operations of business in Nigeria, Bangladesh and Ghana.

### 4.2 Oil pollution in the Niger Delta

Nigeria is a country located in West Africa. According to the information published by the UN Economic and Social Council is the largest economy in West Africa, with 41 per cent of the region's gross domestic product. However, this economic growth has not resulted in shared prosperity, equitable social progress and environmental protection, resulting in third part of the population living below the poverty line. In the case of children, UNICEF estimates child poverty at 75 per cent, reaching 90 per cent in some northern states<sup>134</sup>.

In 1991 Nigeria ratified the CRC and presented during the last twenty-eight years three State's report to the CRC Committee under the mandate of CRC Article 44.1. Each reporting cycle concluded with the adoption of the respective Concluding Observation to the State<sup>135</sup>. The initial report was submitted in July 19<sup>th</sup> 1995, the second report was submitted in September 1<sup>st</sup> 2004 and the combined third and fourth periodic report was submitted in September 5<sup>th</sup> 2008. An important aspect to remark is that during the two reporting cycles developed by Nigeria, there is no formal evidence of the participation of national or international civil society organizations, according to the information published in the UN Treaty Body Database<sup>136</sup>.

The Niger Delta is Africa's most important oil-producing region, and one of the most polluted places on earth<sup>137</sup>. The 2018 study "*Negligence in the Niger Delta, decoding Shell and Eni's poor record on oil spills*" by Amnesty International explained the epidemic of oil spills in this region, and explained how every year hundreds of them damage the environment and devastate the lives of

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<sup>133</sup> See 31, *supra*, at 30.

<sup>134</sup> United Nations Economic and Social Council, Nigeria – UNICEF country programme of cooperation, 2018-2022. UN Doc E/ICEF/2017/P/L.30, paragraph 3

<sup>135</sup> CRC CO Nigeria 30 October 1996 - UN Doc CRC/C/15/Add.61 (1996), CRC CO Nigeria 13 April 2005 - UN Doc CRC/C/15/Add.257 (2005) and CRC CO Nigeria 21 June 2010 - UN Doc CRC/C/NGA/CO/3-4 (2010)

<sup>136</sup> UN Treaty Body Database – CRC Nigeria:  
[https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Countries.aspx?CountryCode=NGA&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Countries.aspx?CountryCode=NGA&Lang=EN)  
(last accessed 27-06-2019)

<sup>137</sup> Amnesty International, Niger Delta Negligence <https://www.amnesty.org/en/latest/news/2018/03/niger-delta-oil-spills-decoders/> (last accessed 27-06-2019)

people living there<sup>138</sup>. According to this report, Amnesty International and other organizations highlighted since 2009 the harm caused by two of the largest companies operating in the Niger Delta – the Anglo-Dutch company, Royal Dutch Shell (Shell), and Eni, from Italy<sup>139</sup>.

Following the GC16 standard, States have the obligation to respect and ensure children’s rights within their jurisdiction, and that jurisdiction is not limited by the State’s territory<sup>140</sup>. In the present case both, the Home States (The Netherlands and Italy) and the Host State (Nigeria) have the responsibility to respect the rights of all children who were under the scope of the global operations of business (oil industry). Applying GC 16 to the present case, Nigeria has the primary responsibility to respect, protect and fulfil children’s rights in their jurisdiction ensuring that all transnational corporations operating within their borders do it respecting the mandates of the CRC. The Netherlands and Italy have the obligation to respect, protect and fulfil children’s rights provided that there is a reasonable link between the State and conduct concerned.

The oil spill issues in the Niger Delta is a complex problem with decades of State’s and civil society interventions. The conclusion presented by Amnesty International in its 2018 report is that independently of the Nigerian State ability or willingness to fulfil its own human rights obligations “*the evidence presented in this report shows that Shell and Eni are failing to fulfil their responsibility to respect the human rights of communities living in the Niger Delta*”<sup>141</sup>.

For the aim of this thesis, at this point is important to revise if the CRC Committee addressed this issue as a negative consequence of the operations of these multinationals (Shell and Eni) in the respective CO’s of the States involved: Nigeria, The Netherlands and Italy. Firstly, in the last CO to Nigeria (2010)<sup>142</sup> the CRC Committee made explicit mention to the situation of the Niger Delta, recommending immediate measures to address the negative impacts on health and standard of living of all children in the affected area. Secondly, the last CO to The Netherlands (2015)<sup>143</sup> made also explicit mentioning of the negative impact of the Dutch extractive industry in Nigeria. The CRC Committee applied GC 16 in order to recommend the State to ensure that business enterprises with operations abroad complies with international human rights, environmental and other standards according to the CRC. Finally, even though the last CO to Italy (2019)<sup>144</sup> do not have explicit recommendations in light of GC16, the previous CO<sup>145</sup> adopted in 2011 contained a specific recommendation to the State to adopt corporate human rights responsibility parameters including companies domiciled in Italy with business partners overseas.

#### 4.3 Garment industry in Bangladesh

The World Bank’s overview about Bangladesh describes highlight the economic progress of this country in the last decades reducing poverty, from 44.2 percent in 1991 to 14.8 percent in

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<sup>138</sup> Amnesty International, Negligence in the Niger Delta, decoding Shell and Eni’s poor record on oil spills (2018), at 4

<sup>139</sup> *Id.*

<sup>140</sup> GC 16, paragraph 39.

<sup>141</sup> See 138, *supra* at 7.

<sup>142</sup> CRC CO Nigeria 21 October 2010, UN Doc CRC/C/NGA/CO/3-4, paragraph 46

<sup>143</sup> CRC CO The Netherlands 16 July 2015, UN Doc CRC/C/NLD/CO/4, paragraph 22 and 23

<sup>144</sup> CRC CO Italy 28 February 2019, UN Doc CRC/C/ITA/CO/5-6

<sup>145</sup> CRC CO Italy 31 October 2011, UN Doc CRC/C/ITA/CO/3-4, paragraph 21

2016/17<sup>146</sup>. The garment industry is one of the biggest industries behind this evolution and, according to a UNICEF research Bangladesh has become the second largest exporter of garments in the world – after China<sup>147</sup>.

In 1990 Bangladesh ratified the CRC. Since then it became an active State regarding the reporting cycles to the CRC Committee with one initial and three periodic reports. Each reporting cycle ended with its respective CO to the State<sup>148</sup>. The initial report was submitted in November 15<sup>th</sup> 1995, the second periodic report in June 12<sup>th</sup> 2001, the combined third and fourth one was submitted in September 4<sup>th</sup> 2007 and the last in October 23<sup>th</sup> 2012. Between the combined third-fourth and the fifth reporting cycle the participation of civil society organizations increased from zero to nine formal documents submitted to the CRC Committee<sup>149</sup>, providing valuable information to the CRC Committee members about specific issues affecting the rights of the child in Bangladesh.

Bangladesh is the sixth largest apparel supplier of international markets like the United States and European Union countries. The quantification of its apparel products worth nearly \$5 billion per year to the United States, European Union (EU), Canada and other countries of the world<sup>150</sup>. However, according to a 2017 report of SOMO there are still more than 3.5 million children working in Bangladesh, aged 5 to 17 years old<sup>151</sup>. Even though direct child labour in export-oriented garment factories has been reduced due to “zero tolerance policies”, the cited SOMO report explains that low wages and long working hours for adult employees play a key role in their decision of taking their children out of school and let them work in various jobs. A non-exhaustive list of international garment brands and corporations were pointed out by SOMO: H&M, C&A, Esprit, Marks & Spencer, GAP, VF Corporation and Kmart Australia<sup>152</sup>.

At this stage, the extraterritorial standard for global operations of business<sup>153</sup> is going to be applied to the present case. According to the provisions of GC 16 both, the Home State (Sweden, using the company H&M as an example for the assessment) and the Host State (Bangladesh) are bounded by the fulfilment of the CRC provisions. Bangladesh with the primary responsibility to respect, protect and fulfil the right of children in its territory ensuring that transnational corporations comply the same obligation. Sweden, as the home country where the H&M corporation is located, has a reasonable link with this industry. In declarations to Business

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<sup>146</sup> World Bank Bangladesh overview, <https://www.worldbank.org/en/country/bangladesh/overview> (last accessed 27-06-2019)

<sup>147</sup> UNICEF, The Ready-Made Garment Sector and Children in Bangladesh (2015), at 3

<sup>148</sup> CRC CO Bangladesh 18 July 1997 - UN Doc CRC/C/15/Add.74 (1997), CRC CO Bangladesh 27 October 2003 - UN Doc CRC/C/15/Add.221 (2003), CRC CO Bangladesh 26 June 2009 - UN Doc CRC/C/BGD/CO/4 (2009) and CRC Bangladesh 30 October 2015 - UN Doc CRC/C/BGD/CO/5 (2015)

<sup>149</sup> UN Treaty Body Database [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Countries.aspx?CountryCode=BGD&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Countries.aspx?CountryCode=BGD&Lang=EN) (last accessed 27-06-2019)

<sup>150</sup> Ali Mohammad and Habib Mamun Supply Chain Management of Textile Industry: A Case Study on Bangladesh, Department of Operations Management, Faculty of Business Administration American International University-Bangladesh (AIUB) Vol. 1, No. 2, September 2012 at 38

<sup>151</sup> SOMO Garment brands contribute to low wages, long working hours, child labour and school dropouts in Bangladesh <https://www.somo.nl/garment-brands-contribute-low-wages-long-working-hours-child-labour-school-dropouts-bangladesh/> (last accessed 27-06-2019)

<sup>152</sup> *Id.*

<sup>153</sup> GC 16, paragraph 40.

Insider<sup>154</sup> the enterprise senior policy advisor for the International Labour Rights Forum expressed that H&M is one of Bangladesh's biggest buyers<sup>155</sup>.

Following the aim of this thesis, it is necessary to check if the CRC Committee addressed this issue as a negative consequence of the garment industry in Bangladesh in the respective CO's of the States involved: Bangladesh and Sweden. In the CO to Bangladesh adopted after the combined third and fourth periodic report (2009) the CRC Committee addressed the issue of the ready-made garment sector recommending the State to take urgent measures and monitor the involvement of children in this industry as an exploitative form of child labour<sup>156</sup>. In the last CO to Bangladesh (2015)<sup>157</sup> the negative impact of the garment industry was addressed in an indirect way, recommending facilities for the parents employed in the mentioned industry; especially childcare facilities in garment factories. On the other side, the last CO to Sweden (2015)<sup>158</sup> is silent about this issue with no recommendations in light of GC16, repeated situation in all the previous CO's of the CRC Committee.

#### 4.4 Cocoa industry in Ghana

Ghana is an African country located on the Atlantic side of the continent next to Togo, Cote d'Ivoire, and Burkina Faso with a population of about 29.6 million persons (2018). The World Bank data estimates that Ghana's economy accelerated to 8% in 2017, making it the second-fastest African economy behind Ethiopia<sup>159</sup>. However, according to a 2016 UNICEF report what stands out for Ghana is that the highest levels of inequality are now registered within certain regions. The Upper West region has the highest level of inequality in the country and the largest increase in inequality since the 1990s<sup>160</sup>.

In 1990 Ghana ratified the CRC. Since then, the State presented one initial and two periodic reports to the CRC Committee. The initial report was submitted in December 20<sup>th</sup> 1995, the second one in March 03<sup>rd</sup> 2004 and the combined third to fifth periodic report was submitted in May 24<sup>th</sup> 2012. According to the information published in the UN Treaty Body Database<sup>161</sup> the last reporting cycle was the first occasion where non-governmental organizations submitted their inputs to the CRC Committee, in a number of five.

The World Bank projections estimate a stable economy in Ghana. However, the 2018 Global Slavery Index elaborated by the Walk Free Foundation considered the cocoa agriculture in Ghana as an industry on the spotlight of modern slavery<sup>162</sup>. The findings of the mentioned research

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<sup>154</sup> Business Insider, Here are some of the biggest brands that make clothes in Bangladesh. May 13 2013. <https://www.businessinsider.com/big-brands-in-bangladesh-factories-2013-5?international=true&r=US&IR=T> (last accessed 27-06-2019)

<sup>155</sup> *Id.*

<sup>156</sup> CRC CO Bangladesh 26 June 2009 - UN Doc CRC/C/BGD/CO/4 (2009), paragraph 82 and 83

<sup>157</sup> CRC Bangladesh 30 October 2015 - UN Doc CRC/C/BGD/CO/5 (2015), paragraph

<sup>158</sup> CRC CO Sweden 6 March 2015, UN Doc CRC/C/SWE/CO/5

<sup>159</sup> World Bank Ghana overview, <https://www.worldbank.org/en/country/ghana/overview> (last accessed 27-06-2019)

<sup>160</sup> UNICEF The Ghana Poverty and Inequality Report (2016), at 1 and 2

<sup>161</sup> UN Treaty Body Database – CRC Ghana:

[https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Countries.aspx?CountryCode=GHA&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Countries.aspx?CountryCode=GHA&Lang=EN) (last accessed 27-06-2019)

<sup>162</sup> Walk Free Foundation, The 2018 Global Slavery Index, 2018, at 46.

<https://www.globalslaveryindex.org/resources/downloads/> (last accessed 02-07-2019)

suggest an estimated 708,000 children worked in cocoa agriculture in medium and high cocoa producing areas between August 2016 and August 2017 and around 1000 victims of child forced labour this industry between 2013 and 2017. A deep investigation of The Washington Post published in 2019<sup>163</sup> refers that about two-thirds off the world's cocoa supply comes from West Africa where according to a 2015 U.S. Labor Department report, more than 2 million children were engaged in dangerous labor in cocoa-growing regions. Further, the same publication indicates that representatives of some of the biggest and best-known brands - Hershey, Mars and Nestlé – could not guarantee that any of their chocolates were produced without child labor<sup>164</sup>.

Using the GC 16 extraterritorial standard for global operations of business<sup>165</sup> as a reference, the situation explained above involve at least one Home State (Switzerland as Nestle's corporate location) and the Host State (Ghana) as main actors responsible to comply with the CRC provisions. Ghana with the primary responsibility to respect, protect and fulfil the right of all children in its territory ensuring that transnational corporations comply the same obligation. Switzerland, home country where Nestle corporation is located, has a reasonable link with this issue taking into consideration the Nestle Cocoa Plan<sup>166</sup> designed to tackle the prevalence of child labour in its cocoa supply chain.

Following the aim of this thesis, it is necessary to check if the CRC Committee addressed this issue as a negative consequence of the cocoa industry in Ghana in the respective CO's of the States involved: Ghana and Switzerland. In the last CO to Ghana adopted after the combined third to fifth periodic report (2015) the CRC Committee noted that international corporations operating in the country, particularly in some industries like the cocoa one does not benefit the local communities, raising its concern about harmful consequences to children<sup>167</sup>. Also, the CRC Committee recommended the adoption of clear legislative frameworks in light of the provisions of GC 16 for both national and international corporations<sup>168</sup>. On the other side, in the last CO to Switzerland (2013)<sup>169</sup> the CRC Committee recommended the State to establish a clear regulatory framework for multinational business enterprises, ensuring that them and their subsidiaries managed from Swiss territory are legally accountable for any violations of children's rights and human rights in general<sup>170</sup>.

#### 4.5 Concluding remarks

According to the three cases described in the present chapter, the CRC Committee successfully addressed the extraterritorial approach of GC16 in two of them (oil pollution in the Niger Delta and Cocoa industry in Ghana). In the case of the garment industry in Bangladesh, the research of non-state actors explained how the development of "zero tolerance" domestic policies decreased the direct participation of children in the garment factories. However, the surrounding negative effects of this industry are still affecting children in Bangladesh.

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<sup>163</sup> The Washington Post, Cocoa's child laborers. June 5<sup>th</sup> 2019

<sup>164</sup> *Id.*

<sup>165</sup> GC 16, paragraph 40.

<sup>166</sup> The Nestlé Cocoa Plan aims to improve the lives of cocoa farmers and the quality of their produce in West Africa.

<sup>167</sup> CRC CO Ghana 09 June 2015 - UN Doc CRC/C/GHA/CO/3-5 (2015), paragraph 19

<sup>168</sup> *Id.*, paragraph 20

<sup>169</sup> CRC CO Switzerland 26 February 2015 - UN Doc CRC/C/CHE/CO/2-4 (2015)

<sup>170</sup> *Id.*, paragraph 23

If better recommendations regarding the GC 16 extraterritorial approach are expected during the next reporting cycle of the States involved, all actor involved requires to put relevant information on knowledge of the CRC Committee during the respective reporting cycle. Also, the CRC Committee could design a research and alert system in collaboration with other UN agencies and specialized agents.

## 5. Conclusion

To reach the aim of this thesis: “the analysis of the views of the CRC Committee regarding negative impacts of global operations of business on children’s rights”, Chapter 3 presents how the CRC Committee addressed in the GC 16 extraterritorial standard based on the obligations to both Home and Host States. Chapter 4 went deeper in three specific cases analysing how the extraterritorial standard was addressed the respective CO’s in both Home States (The Netherlands, Sweden and Switzerland) and Host States (Nigeria, Bangladesh and Ghana). The analysis exercise developed in Chapter 4 could be replicated in all the concerns addressed in the regional charts presented in Chapter 3 in order to improve the monitoring role of the CRC Committee regarding the GC 16 extraterritorial standard. This improvement would be considered one important factor under the CRC States Parties obligation to respect, protect and fulfil the right of all children around the globe under the provisions of the CRC.

### 5.1 CRC Committee concluding observations after GC 16

This thesis affirms that the States obligations regarding the impact of the business sector on children’s rights is a real topic of concern by the CRC Committee. One hundred and twenty-three of the most recent CO’s adopted by this UN human rights treaty body evidence it. Considering that this CO’s refers both to national and multinational business activities, this thesis expectation is to raise the alert about how important is to address that difference during the CRC reporting cycles. The goal is to provoke a better knowledge about the real impact of the global operations of business on children rights.

### 5.2 The extraterritorial standard in the CRC Committee concluding observations

This thesis found specific references about the impact of the global operations of business in the CO’s adopted by the CRC Committee for 65 countries in 5 regions<sup>171</sup>, with succeeded and limited application of the extraterritorial standard as it was presented in Chapter 4. To improve the application of the extraterritorial standard in the future, the CRC Committee needs to lead its dissemination and understanding for all the actor involved in the reporting cycle (CRC State Parties, UN agencies, NHROs, NGOs and academics). It will improve the quality of future recommendations in future CO’s.

### 5.3 Further research

Since the GC 16 extraterritorial standard involves the obligations of at least two CRC State Parties, more research can be done using as a starting point the data collected by this thesis in Chapter 3. Moreover, the CRC Committee own the responsibility to make an open call to all the organizations doing research or advocacy in this field in order to enrich its knowledge in order to improve the recommendations to the States involved under the provisions of GC 16.

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<sup>171</sup> Refer to the regional charts elaborated by the author in Chapter 3, from 22 to 35.

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## Annex I

<b>Most recent Committee on the Rights of the Child Concluding Observations with mentions to business activities</b>			
N°	Concluding Observation	Date	UN Document
1	UN CRC Concluding Observations to Algeria	18.07.2012	CRC/C/DZA/CO/3-4
2	UN CRC Concluding Observations to Andorra	03.12.2012	CRC/C/AND/CO/2
3	UN CRC Concluding Observations to Angola	27.06.2018	CRC/C/AGO/CO/5-7
4	UN CRC Concluding Observations to Argentina	01.10.2018	CRC/C/ARG/CO/5-6
5	UN CRC Concluding Observations to Armenia	08.07.2013	CRC/C/ARM/CO/3-4
6	UN CRC Concluding Observations to Austria	03.12.2012	CRC/C/AUT/CO/3-4
7	UN CRC Concluding Observations to Azerbaijan	12.03.2012	CRC/C/AZE/CO/3-4
8	UN CRC Concluding Observations to Bahrain	03.08.2011	CRC/C/BHR/CO/4-6
9	UN CRC Concluding Observations to Bangladesh	30.10.2015	CRC/C/BGD/CO/5
10	UN CRC Concluding Observations to Belarus	08.04.2011	CRC/C/BLR/CO/3-4
11	UN CRC Concluding Observations to Belgium	18.06.2010	CRC/C/BEL/CO/3-4
12	UN CRC Concluding Observations to Benin	25.02.2016	CRC/C/BEN/CO/3-5
13	UN CRC Concluding Observations to Bosnia and Herzegovina	29.11.2012	CRC/C/BIH/CO/2-4
14	UN CRC Concluding Observations to Brazil	30.10.2015	CRC/C/BRA/CO/2-4
15	UN CRC Concluding Observations to Bulgaria	21.11.2016	CRC/C/BGR/CO/3-5
16	UN CRC Concluding Observations to Burkina Faso	09.02.2010	CRC/C/BFA/CO/3-4
17	UN CRC Concluding Observations to Cameroon	06.07.2017	CRC/C/CMR/CO/3-5
18	UN CRC Concluding Observations to Chile	30.10.2015	CRC/C/CHL/CO/4-5
19	UN CRC Concluding Observations to Colombia	06.03.2015	CRC/C/COL/CO/4-5
20	UN CRC Concluding Observations to Congo	25.02.2014	CRC/C/COG/CO/2-4

21	UN CRC Concluding Observations to Costa Rica	03.08.2011	CRC/C/CRI/CO/4
22	UN CRC Concluding Observations to Bhutan	05.07.2017	CRC/C/BTN/CO/3-5
23	UN CRC Concluding Observations to China	29.10.2013	CRC/C/CHN/CO/3-4
26	UN CRC Concluding Observations to Croatia	13.10.2014	CRC/C/HRV/CO/3-4
27	UN CRC Concluding Observations to Cyprus	24.09.2012	CRC/C/CYP/CO/3-4
28	UN CRC Concluding Observations to Czech Republic	04.08.2011	CRC/C/CZE/CO/3-4
29	UN CRC Concluding Observations to Democratic People's Republic of Korea	23.10.2017	CRC/C/PRK/CO/5
30	UN CRC Concluding Observations to Democratic Republic of the Congo	28.02.2017	CRC/C/COD/CO/3-5
31	UN CRC Concluding Observations to Denmark	26.10.2017	CRC/C/DNK/CO/5
32	UN CRC Concluding Observations to Ecuador	26.10.2017	CRC/C/ECU/CO/5-6
33	UN CRC Concluding Observations to Egypt	15.07.2011	CRC/C/EGY/CO/3-4
34	UN CRC Concluding Observations to El Salvador	29.11.2018	CRC/C/SLV/CO/5-6
35	UN CRC Concluding Observations to Eritrea	02.07.2015	CRC/C/ERI/CO/4
36	UN CRC Concluding Observations to Estonia	08.03.2017	CRC/C/EST/CO/2-4
37	UN CRC Concluding Observations to Ethiopia	03.06.2015	CRC/C/ETH/CO/4-5
38	UN CRC Concluding Observations to Finland	03.08.2011	CRC/C/FIN/CO/4
39	UN CRC Concluding Observations to former Yugoslav Republic of Macedonia	23.06.2010	CRC/C/MKD/CO/2
40	UN CRC Concluding Observations to France	23.02.2016	CRC/C/FRA/CO/5
41	UN CRC Concluding Observations to Georgia	09.03.2017	CRC/C/GEO/CO/4
42	UN CRC Concluding Observations to Germany	25.02.2014	CRC/C/DEU/CO/3-4
43	UN CRC Concluding Observations to Ghana	09.06.2015	CRC/C/GHA/CO/3-5
44	UN CRC Concluding Observations to Great Britain and Northern Ireland	12.07.2016	CRC/C/GBR/CO/5

45	UN CRC Concluding Observations to Greece	13.08.2012	CRC/C/GRC/CO/2-3
46	UN CRC Concluding Observations to Guatemala	25.10.2010	CRC/C/GTM/CO/5-6
47	UN CRC Concluding Observations to Guinea-Bissau	08.07.2013	CRC/C/GNB/CO/2-4
48	UN CRC Concluding Observations to Guyana	18.06.2013	CRC/C/GUY/CO/2-4
49	UN CRC Concluding Observations to Holy See	25.02.2014	CRC/C/VAT/CO/2
50	UN CRC Concluding Observations to Honduras	03.07.2015	CRC/C/HND/CO/4-5
51	UN CRC Concluding Observations to Hungary	14.10.2014	CRC/C/HUN/CO/3-5
52	UN CRC Concluding Observations to Iceland	23.01.2012	CRC/C/ISL/CO/3-4
53	UN CRC Concluding Observations to Iraq	03.03.2015	CRC/C/IRQ/CO/2-4
24	UN CRC Concluding Observations to India	07.07.2014	CRC/C/IND/CO/3-4
54	UN CRC Concluding Observations to Ireland	01.03.2016	CRC/C/IRL/CO/3-4
55	UN CRC Concluding Observations to Islamic Republic of Iran	14.03.2016	CRC/C/IRN/CO/3-4
56	UN CRC Concluding Observations to Israel	04.07.2013	CRC/C/ISR/CO/2-4
57	UN CRC Concluding Observations to Italy	31.10.2011	CRC/C/ITA/CO/5-6
25	UN CRC Concluding Observations to Japan	20.06.2010	CRC/C/JPN/CO/4-5
58	UN CRC Concluding Observations to Jordan	08.07.2014	CRC/C/JOR/CO/4-5
59	UN CRC Concluding Observations to Kazakhstan	30.10.2015	CRC/C/KAZ/CO/4
60	UN CRC Concluding Observations to Kenya	21.03.2016	CRC/C/KEN/CO/3-5
61	UN CRC Concluding Observations to Kuwait	29.10.2013	CRC/C/KWT/CO/2
62	UN CRC Concluding Observations to Latvia	14.03.2016	CRC/C/LVA/CO/3-5
63	UN CRC Concluding Observations to Lebanon	22.06.2017	CRC/C/LBN/CO/4-5
64	UN CRC Concluding Observations to Liberia	13.12.2012	CRC/C/LBR/CO/2-4

65	UN CRC Concluding Observations to Lithuania	30.10.2013	CRC/C/LTU/CO/3-4
66	UN CRC Concluding Observations to Luxembourg	29.10.2013	CRC/C/LUX/CO/3-4
67	UN CRC Concluding Observations to Madagascar	08.03.2012	CRC/C/MDG/CO/3-4
68	UN CRC Concluding Observations to Malawi	06.03.2017	CRC/C/MWI/CO/3-5
69	UN CRC Concluding Observations to Maldives	14.03.2016	CRC/C/MDV/CO/4-5
70	UN CRC Concluding Observations to Malta	18.06.2013	CRC/C/MLT/CO/2
71	UN CRC Concluding Observations to Mauritania	26.11.2018	CRC/C/MRT/CO/3-5
72	UN CRC Concluding Observations to Mauritius	27.02.2015	CRC/C/MUS/CO/3-5
73	UN CRC Concluding Observations to Mexico	03.07.2015	CRC/C/MEX/CO/4-5
74	UN CRC Concluding Observations to Monaco	29.10.2013	CRC/C/MCO/CO/2-3
75	UN CRC Concluding Observations to Mongolia	12.07.2017	CRC/C/MNG/CO/5
76	UN CRC Concluding Observations to Montenegro	22.06.2018	CRC/C/MNE/CO/2-3
77	UN CRC Concluding Observations to Morocco	14.10.2014	CRC/C/MAR/CO/3-4
78	UN CRC Concluding Observations to Namibia	16.10.2012	CRC/C/NAM/CO/2-3
79	UN CRC Concluding Observations to Nepal	08.07.2016	CRC/C/NPL/CO/3-5
80	UN CRC Concluding Observations to Nicaragua	20.10.2010	CRC/C/NIC/CO/4
81	UN CRC Concluding Observations to Niger	11.10.2018	CRC/C/NER/CO/3-5
82	UN CRC Concluding Observations to Nigeria	21.06.2010	CRC/C/NGA/CO/3-4
83	UN CRC Concluding Observations to Norway	04.07.2018	CRC/C/NOR/CO/5-6
84	UN CRC Concluding Observations to Oman	14.03.2016	CRC/C/OMN/CO/3-4
85	UN CRC Concluding Observations to Pakistan	11.07.2016	CRC/C/PAK/CO/5
86	UN CRC Concluding Observations to Panama	28.02.2018	CRC/C/PAN/CO/5-6

87	UN CRC Concluding Observations to Paraguay	10.02.2010	CRC/C/PRY/CO/3
88	UN CRC Concluding Observations to Peru	02.03.2016	CRC/C/PER/CO/4-5
89	UN CRC Concluding Observations to Poland	30.10.2015	CRC/C/POL/CO/3-4
90	UN CRC Concluding Observations to Portugal	25.02.2014	CRC/C/PRT/CO/3-4
91	UN CRC Concluding Observations to Qatar	22.06.2017	CRC/C/QAT/CO/3-4
92	UN CRC Concluding Observations to Republic of Korea	02.02.2012	CRC/C/KOR/CO/3-4
93	UN CRC Concluding Observations to Romania	13.07.2017	CRC/C/ROU/CO/5
94	UN CRC Concluding Observations to Russian Federation	25.02.2014	CRC/C/RUS/CO/4-5
95	UN CRC Concluding Observations to Rwanda	08.07.2013	CRC/C/RWA/CO/3-4
96	UN CRC Concluding Observations to Sao Tome	29.10.2013	CRC/C/STP/CO/2-4
97	UN CRC Concluding Observations to Saudi Arabia	25.10.2016	CRC/C/SAU/CO/3-4
98	UN CRC Concluding Observations to Senegal	07.03.2016	CRC/C/SEN/CO/3-5
99	UN CRC Concluding Observations to Serbia	07.03.2017	CRC/C/SRB/CO/2-3
100	UN CRC Concluding Observations to Seychelles	05.03.2018	CRC/C/SYC/CO/5-6
101	UN CRC Concluding Observations to Sierra Leone	01.11.2016	CRC/C/SLE/CO/3-5
102	UN CRC Concluding Observations to Slovakia	20.07.2016	CRC/C/SVK/CO/3-5
103	UN CRC Concluding Observations to Slovenia	08.07.2013	CRC/C/SVN/CO/3-4
104	UN CRC Concluding Observations to South Africa	27.10.2016	CRC/C/ZAF/CO/2
105	UN CRC Concluding Observations to Spain	03.11.2010	CRC/C/ESP/CO/5-6
106	UN CRC Concluding Observations to Sri Lanka	02.03.2018	CRC/C/LKA/CO/5-6
107	UN CRC Concluding Observations to Sudan	22.10.2010	CRC/C/SDN/CO/3-4
108	UN CRC Concluding Observations to Suriname	09.11.2016	CRC/C/SUR/CO/3-4

109	UN CRC Concluding Observations to Sweden	06.03.2015	CRC/C/SWE/CO/5
110	UN CRC Concluding Observations to Switzerland	26.02.2015	CRC/C/CHE/CO/2-4
111	UN CRC Concluding Observations to Syrian Arab Republic	09.02.2012	CRC/C/SYR/CO/3-4
112	UN CRC Concluding Observations to The Netherlands	16.07.2015	CRC/C/NLD/CO/4
113	UN CRC Concluding Observations to Togo	16.10.2006	CRC/C/TGO/CO/3-4
114	UN CRC Concluding Observations to Tunisia	16.06.2010	CRC/C/TUN/CO/3
115	UN CRC Concluding Observations to Turkey	20.07.2012	CRC/C/TUR/CO/2-3
116	UN CRC Concluding Observations to Ukraine	21.04.2011	CRC/C/UKR/CO/3-4
117	UN CRC Concluding Observations to United Arab Emirates	30.10.2015	CRC/C/ARE/CO/2
118	UN CRC Concluding Observations to Uruguay	05.03.2015	CRC/C/URY/CO/3-5
119	UN CRC Concluding Observations to Venezuela	13.10.2014	CRC/C/VEN/CO/3-5
120	UN CRC Concluding Observations to Viet Nam	22.08.2012	CRC/C/VNM/CO/3-4
121	UN CRC Concluding Observations to Yemen	25.02.2014	CRC/C/YEM/CO/4
122	UN CRC Concluding Observations to Zambia	08.03.2012	CRC/C/ZMB/CO/2-4
123	UN CRC Concluding Observations to Zimbabwe	07.03.2016	CRC/C/ZWE/CO/2