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And the responsibility of business is...?  
Multinational enterprises, codes of  
conduct and norms for globalisation

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# The path of less resistance: the OECD Guidelines on Multinational Enterprises and the struggle for a code of conduct

1. Context I: MNE dilemma
2. Context II: Codes of Conduct
3. OECD Guidelines

## **1. MNE (/MNC/TNC) dilemma**

New development in 1970s: MNEs are widely perceived as ambivalent global phenomenon. Governments, international organisations and academia begin to study them.

## Features of MNE dilemma:

- Economic power
- MNE as a whole operates beyond the regulatory framework of the nation state
- Growth of MNEs
- Complex structure

## Causes of MNE dilemma:

- Developing countries enter public arena (G77)
- Layoffs/relocations → response by organised labour
- Corporate misbehaviour
- Campaigns by NGOs (Declaration of Berne; churches)

## UN report on "Multinational Corporations in World Development" (1973)

- Most extensive and elaborated report
- Public hearings in New York and Geneva by Group of Eminent Persons (GEP)
  - Government statements
  - MNC statements
  - Other statements (=civil society, academia)
- broad range of views on the MNE dilemma, with strong focus on “world development”

## **ILO report on "Multinational Enterprises and social policy" (1973)**

- Report focussed on labour issues
- Written by ILO working group, thus paying tribute to tripartite structure (government, labour, employers)

## **EC communication on "Multinational Undertakings and Community Regulation" (1973)**

- Rather negative view of MNEs → subject to control
- Widely commented by EEC's Economic and Social Committee



## **2. Codes of conduct**

Codes of conduct were the preferred form of dealing with the MNE dilemma on the global level ('code craze'). Their content and legal nature was highly contested though.



Source: Wall Street Journal (presumably)

## **UN Code of Conduct (1974-1993)**

- Most universal code project in terms of participants and issues covered
  - Most controversial and political code (East vs West, North vs South)
- 
- broad debate mirroring almost all views
  - "Parliament of Man"

## **ILO Tripartite Declaration on Multinational Enterprises and Social Policy (1977)**

- second code to be adopted
- other than OECD Guidelines, limited to labour and social issue...
- ...but universal applicability among ILO members
- much less referred to than OECD Guidelines
  - The “labour”(-friendly) interpretation of CR
  - “Working Man’s Society”

## EEC Code of conduct regarding companies operating in South Africa (1977)

- hastily launched upon meeting of the nine EEC foreign ministers
- sloppy implementation
- but: first code to talk about “corporate responsibility” + invoking human rights

→ Community action on CR

## European Parliament's and US Congress's “Lange-Gibbons Code of Conduct” (1975)

- rather comprehensive code, resulting from EEC/US cooperation

- calling for strict control of MNEs

- not endorsed by the two Houses

→ utopian notion of CR (“all that could have been...”)

→ “Democrat Debating Society”

# OECD Guidelines for Multinational Enterprises (1976)

- First code to be adopted

- the “market” interpretation of CSR

- "Rich Countries Club"

- OECD Member Countries: Declaration on International Investment and Multinational Enterprises
  - Annex: Guidelines for Multinational Enterprises
- OECD Council:
  - Decision on National Treatment
  - Decision on International Investment Incentives and Disincentives
  - Decision on Implementation Procedure



## OECD Guidelines (6 pages)

- Preamble
- General policies
- Disclosure of information
- Financing
- Taxation
- Competition
- Employment and industrial relations
- Science and technology

## **OECD Guidelines – a pre-emptive strike?**

- Voluntary code (=annex to a Declaration)
- Tied to foreign investment (ie national treatment, investment incentives/disincentives)
- Corporate responsibility light (=mix of general and technical provisions)

## **OECD Guidelines – reasons for “quick win”:**

- Small, homogenous drafting group led by UK and US delegations
- No developing countries represented
- No civil society represented (only TUAC and BIAC at a rather late stage)
- Avoidance of difficult topics (applicability, MNE definition)

## Pre-emptive guidelines – Maybe, but...

- No sufficient evidence in OECD , EEC and UN Archives (maybe in national and/or BIAC archives?)
- OECD only a regional code at first
- Continuing process
- Even in 1975/76: recognition of corporate responsibility (=MNE responsibilities vis-à-vis states)

# Thank you!

If you have any questions or suggestions, please contact me by e-mail: [thomas.hajduk \[at\] unisg.ch](mailto:thomas.hajduk@unisg.ch)