

***PROVISIONAL EDITION***

# **Regulating Corporations**

## *A Resource Guide*

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## Acronyms and Abbreviations

ATCA	Alien Tort Claims Act
BCSD	Business Council for Sustainable Development
BDI	Bundesverband der Deutschen Industrie e. V.
CEDAW	Convention on the Elimination of all Forms of Discrimination
CERES	Coalition for Environmentally Responsible Economies
CCC	Clean Clothes Campaign
CSR	corporate social responsibility
ETI	Ethical Trading Initiative
FAO	Food and Agricultural Organization
FIFA	Fédération Internationale de Football Association
FLA	Fair Labor Association
FSC	Forest Stewardship Council
GEMI	Global Environment Manufacturing Initiative
GMO	genetically modified organism
GRI	Global Reporting Initiative
GSP	Global Sullivan Principles
ICC	International Chamber of Commerce
ICMM	International Council on Mining and Metals
IFBWW	International Federation of Building and Wood Workers
IHEI	International Hotel Environment Initiative
IISI	International Iron and Steel Institute
ILO	International Labour Office
IRU	International Road Transport Union
ISO	International Organization for Standardization
MNE	multinational enterprise
MSC	Marine Stewardship Council
NCP	National Contact Point
NIEO	New International Economic Order
NGO	non-governmental organization
OECD	Organization for Economic Co-operation and Development
OED	Oxford English Dictionary
PIC	Prior Informed Consent
POP	Persistent Organic Pollutant
SAI	Social Accountability International
SFI	Sustainable Forestry Initiative
TNC	transnational corporation
UDHR	Universal Declaration of Human Rights
UNCTAD	United Nations Conference on Trade and Development
UNCTC	United Nations Centre on Transnational Corporations
UNICEF	United Nations Children's Fund
UNEP	United Nations Environment Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
WBCSD	World Business Council for Sustainable Development
WDC	World Diamond Council
WHO	World Health Organization
WRC	Worker Rights Consortium
WRAP	Worldwide Responsible Apparel Production
WSSD	World Summit on Sustainable Development
WTO	World Trade Organization

## Introduction

The Oxford English Dictionary (OED) defines regulation as “a rule prescribed for the management of some matter, or for the regulating of conduct; a governing precept or direction; a standing rule” (OED 2001). In accordance with this definition it would seem that business needs regulation in order to conduct its activities. The definition suggests that rules are required in order to facilitate management and determine the course of action. It also indicates that such a code of discipline should be observed. Using this definition, this report seeks to disentangle the multifarious regulatory world that relates to transnational corporations (TNCs).

It focuses on regulations related to the working activities of TNCs that affect social, environmental and human rights. It does not address issues traditionally associated with corporate governance or financial aspects. Following a brief historical introduction, the report identifies and describes relevant regulatory initiatives, classifying them into four categories that reflect different regulatory approaches, and listing them alphabetically.<sup>1</sup> The following categories have been adopted: corporate self-regulation, multilateral regulation, civil regulation and multistakeholder initiatives, and national laws that have cross-border implications for TNCs. A final section identifies a number of regulatory proposals that have recently been put forward by various organizations and actors.

The area of regulation related to the social, environmental and human rights responsibilities and obligations of TNCs is immense and continually growing. This report does not claim to be exhaustive. Rather it aims to document some of the main regulations that are international in scope. Given the concentration of both TNCs and international regulatory initiatives in the global North, there is only limited reference to regulatory initiatives that have evolved in Southern countries. Evidently, Southern inspired regulations that affect TNCs are an area of research that requires further attention.

## A Brief History of TNC Regulation

In the run up to the World Summit on Sustainable Development, held in Johannesburg, in 2002, many voices from international NGOs petitioned for binding international regulation to monitor the activities of TNCs. The preceding months had witnessed several exposés of corporate wrong-doings that suggested the international regulatory system was failing to deter harmful behaviour. Several Northern and Southern NGOs joined forces and campaigned for an international convention that aimed to ensure future TNC activities would not undermine social, environmental and human rights. Some called for the establishment of a new global organization that would focus solely on this area, while others proposed the revival of the United Nations Centre on Transnational Corporations (UNCTC) or another United Nations (UN) agency with a similar mandate. While there was mounting pressure for international regulation of TNCs, on the ground, national law was being utilized to hold corporations to account. At the height of the Summit over twenty cases were going through the US courts under the Alien Tort Claims Act, an old American law that allows courts to hear claims by foreign nationals for civil wrongs that violate US law. Three cases were also being pushed through the British legal system concerning past transgressions of British TNCs.

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<sup>1</sup> An attempt has been made to provide Web sites that relate directly to the relevant initiative. In cases where these do not exist, another source has been provided.

Many believe that the existence of these and other corporate social responsibility (CSR) initiatives suggests there is a void within the existing global regulatory armoury concerning the working activities of TNCs. Others point to the multifarious United Nations' conventions, claiming that regulations safeguarding human rights and the environment already exist and that the problem is not a lack of regulation but a lack of enforcement. There is concern that the "soft" legal status of many UN conventions, which derives from their non-binding character, renders such international law a weak form of regulation lacking "teeth". As a result, some members of civil society are pushing for binding forms of international regulation. Yet it would be false to think civil society and others have only recently taken up this cause.

Throughout history, the regulation of TNCs has been an important issue for civil society and governments across all societies. Although interest in the activities of corporate expansion was prominent in colonial times, renewed interest in the impacts of TNCs emerged in the 1970s. In addition, the onset of British decolonization that began in India and Pakistan in 1947 and proceeded apace in subsequent decades also focused attention on foreign corporations, owing to their close relationship with colonial governments. At the time, the struggle of many developing countries for political independence was also intertwined with the struggle for control over their natural resources. Ideas of self-determination became infused with nationalization and overnight there were concerted efforts towards controlling and ridding themselves of all things colonial, including the associated TNCs. Attempts to establish developing country unity took shape after the Bandung Conference in 1955 that led to the creation of the Non-Aligned Movement in 1961, and subsequently, the Declaration for the Establishment of a New International Economic Order (NIEO) that was adopted in 1974. The NIEO sought to change the international economic system in the interest of developing countries. But despite this newly acquired independence, developing countries found it hard to break free of the imperial grip, and the burgeoning industries that developed started to resemble the colonial plantation economy, in particular, strong foreign control over key sectors of the economy. The main difference was that now, TNCs did not work under the mandate of the colonial master. This phenomenon was well documented and within certain circles obtained the title of "neo-colonialism". The concerns of developing countries intensified and before long, they were taken up at the United Nations General Assembly. The birth of the United Nations Centre on Transnational Corporations in 1977, and its work on drafting a code of conduct, raised expectations that a more appropriate international regulatory environment would emerge. However, discontent over the Centre's work from TNCs and some governments increased. Such concerns eventually led to the demise of the Centre in the early 1990s.

The 1980s witnessed several social and environmental catastrophes that directly implicated TNCs. For example, the Bhopal disaster in 1984 and the Exxon Valdez oil spill in 1989 exposed the failures of existing regulatory instruments, and emphasized the need for strong or environmental regulation. Contrastingly, strong regulation strengthening the rights of TNCs ensued instead. The new ideological wave of the 1980s, which became known as the "Washington Consensus", promoted an advanced form of economic liberalization. With fierce conviction, the "invisible hand" of the free market was sold as the solution to the world's economic and social problems. Concurrently it was promulgated that the state, whilst adopting a paternal role, had failed. In the global South, governments were encouraged to deregulate and to privatize state enterprises and public services. Neoliberalism, the *alma mater*, provided more opportunities for business and consequently, many TNCs enlarged not



only their geographical but also their operational remit. Added together, this package bestowed more rights on TNCs. Such privileges, however, were not met with equal responsibilities towards their stakeholders. Host governments in many developing countries found their wings clipped under the neoliberal doctrine and some turned their attention to ways and means of encouraging foreign direct investment in their economies, rather than controlling TNCs.

In keeping with the “free market” philosophy, voluntary initiatives and corporate self-regulation gathered momentum, and a plethora of codes of conduct emerged in the 1990s. In addition to company codes of conduct, industry associations spearheaded their own industry codes. Both individual companies and associations emphasized the merits of self-regulation over government regulation, suggesting that private regulation allowed creativity in a firm to flourish. Juxtaposed against the sustainable development mantra that was then being heralded, it was only a matter of time before the business case for sustainable development was promoted. Soon after, innovative attempts to “green” business multiplied and a flurry of sub-industries were created to meet this need.

Over time, the NGO and trade union communities began to express concerns regarding self-regulatory initiatives. This anxiety centred on the numerous codes of conduct that were unfolding but were not seen to be improving the status of workers. A considerable body of research suggested that despite the introduction of codes of conduct, there was limited improvement in working conditions and labour rights. Studies also identified that many corporate codes did not include independent monitoring and verification procedures or compliance mechanisms.

During the 1980s, chinks in the “Washington Consensus” model had started to appear. Coined “the lost decade”, the 1980s witnessed levels of debt in developing countries spiral out of control. Violent clashes between citizens and police took place in several African and Latin American countries that had adopted the neoliberal prescription. Many reports labelled corporate self-regulation as “greenwash” rather than a genuine attempt at improving the social and environmental performance of business. While companies such as Chevron and Royal Dutch/Shell attempted to pacify activists and public opinion by adopting certain environmentally sustainable business practices, they were also denounced for aggressively lobbying against certain international environmental agreements.

In response, some NGOs, trade unions and other activists began to formulate their own set of regulatory instruments for TNCs to abide by. By the late 1990s, multistakeholder initiatives and partnerships, usually pioneered by NGOs, became the *plat du jour*. During this time, the role of several key NGOs had significantly changed from confrontation to collaboration. NGOs not only became more aligned with government, but during this period, many NGO-business partnerships and dialogues were established. Several Northern NGOs, in particular, became influential in shaping the CSR agenda, and the content of that agenda partly reflected their perceptions and priorities which were not always those of stakeholders in developing countries. Although “civil regulation” attempted to go beyond corporate self-regulation by drafting codes that were more comprehensive and prioritized transparency, stakeholder participation and monitoring, there were signs that civil regulation had its own limitations. As a result, by the turn of the millennium there were increasing calls for “corporate accountability” and stronger regulation of TNCs based on international law.

**Figure 1: Timeline of selected social, economic and political events relating to the regulation of TNCs**

<b>1940s–1960s</b>	
The United Nations was formed	1945
South Africa's apartheid regime instituted	1949
From the 1950s onward, decolonization in developing countries took place	—
The Green Revolution began in the 1950s in Asia and Latin America	—
President Jacobo Arbenz of Guatemala overthrown	1954
Post WW2 decades saw the strengthening of international trade unions and social democratic movements	—
Non-Aligned Movement created at the Belgrade Summit	1961
Group of 77 established	1964
<b>1970s</b>	
Boycott against Nestlé began in Europe in the 1970s	—
President Salvador Allende of Chile overthrown	1973
Resolution supporting New International Economic Order adopted at UN General Assembly	1974
<b>1980s</b>	
The 1980s witnessed the consolidation of the Washington Consensus and a growing debt crisis	—
The Bretton Woods Institutions developed Structural Adjustment Programmes in the 1980s	—
Bhopal disaster	1984
Chernobyl disaster	1986
In the 1980s increasing concerns over large-scale tropical deforestation and global warming	—
Exxon Valdez disaster	1989
<b>1990s</b>	
The early 1990s witnessed several fires in Asian toy factories that led to deaths and injuries	—
The 1990s saw numerous lawsuits issued against tobacco companies	—
United Nations Conference on Environment and Development held in Rio de Janeiro, Brazil	1992
In the 1990s child labour in the carpet, coffee, sport, agriculture and apparel industries came to light	—
Ken Saro Wiwa and eight others executed in Nigeria	1995
World Summit on Social Development took place in Copenhagen, Denmark	1995
The World Industry Council for the Environment (WICE) merged with the Business Council for Sustainable Development to become the World Business Council for Sustainable Development	1995
The term "triple bottom line" was coined	1994
Large-scale protests against the Group of 8 Summit witnessed in Birmingham, United Kingdom	1998
Trade talks collapsed as thousands protested at the World Trade Organization meeting in Seattle; the "anti-globalization movement" was born	1999
After several years of usage by civil society activists, "greenwash" entered the Oxford English Dictionary	1999
<b>2000+</b>	
From 1990–2000+, wars associated with conflict over diamonds waged in some African countries	—
The World Diamond Council was established	2000
The beginning of the millennium witnessed an ascendance in anti-GMO activism around the world	—
Enron debacle led to the largest bankruptcy in North American history	2001
First World Social Forum opened in Porto Alegre, Brazil	2001
World Summit on Sustainable Development held in Johannesburg, South Africa	2000

**Figure 2: Timeline of selected regulatory initiatives that relate to TNCs**

<p><b>1940s–1960s</b></p> <p>1948 Universal Declaration of Human Rights adopted by the UN General Assembly</p> <p>1958 ILO adopted Convention No. 111, Discrimination Employment and Occupation Convention</p> <p>—— ILO adopted the Plantations Convention, No. 110</p> <p>1963 Codex Alimentarius Commission opened in Rome</p>
<p><b>1970s</b></p> <p>1973 ILO adopted Convention No. 138, Minimum Age Convention</p> <p>1976 International Covenant on Civil and Political Rights created</p> <p>—— OECD Guidelines for Multinational Enterprises established</p> <p>1977 Global Sullivan Principles drafted for companies working in South Africa during the apartheid era</p> <p>—— ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy adopted</p> <p>—— United Nations Centre on Transnational Corporations created; began to draft a UN Code of Conduct for Transnational Corporations</p>
<p><b>1980s</b></p> <p>1980 UN Conference on Restrictive Business Practices adopted the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices</p> <p>1981 UNICEF and the WHO established the International Code of Marketing of Breast-Milk Substitutes</p> <p>1985 UN General Assembly adopted the UN Guidelines for Consumer Protection</p> <p>—— FAO established the International Code of Conduct on the Distribution and Use of Pesticides</p> <p>1986 Caux Round Table Principles for Business created</p> <p>1987 Montreal Protocol on Substances that Deplete the Ozone Layer established</p> <p>—— Responsible Care developed in Canada</p> <p>1989 Coalition for Environmentally Responsible Economies (CERES) drafted the CERES Principles</p> <p>—— Convention on the Rights of the Child adopted</p>
<p><b>1990s</b></p> <p>1992 Framework Convention on Climate Change adopted</p> <p>—— The International Chamber of Commerce launched the Business Charter on Sustainable Development</p> <p>1994 North American Agreement on Labor Cooperation (NAFTA side agreement on labour) came into force</p> <p>1995 The International Council of Toy Industries (ICTI) created the ICTI Code of Business Practice</p> <p>1996 The Apparel Industry Partnership was formed, becoming the Fair Labor Association in 1998</p> <p>—— The Fédération Internationale de Football Association (FIFA) Code of Labour Practice established</p> <p>—— Forest Stewardship Council certification began</p> <p>1997 The International Organization for Standardization (ISO) developed the ISO 14000 series</p> <p>1998 The Clean Clothes Campaign (CCC) developed the CCC Code of Labour Practices</p> <p>—— ILO adopted the Declaration on Fundamental Principles and Rights at Work</p> <p>1999 The UN Human Rights Sub-Commission Working Group began to draft the Norms on the Responsibility of Transnational Corporations and Other Business Enterprises with regard to Human Rights</p> <p>—— ILO adopted Convention No. 182, Worst Forms of Child Labour</p>
<p><b>2000+</b></p> <p>2000 UN Secretary-General inaugurated the United Nations Global Compact</p> <p>2001 International Treaty on Plant Genetic Resources for Food and Agriculture adopted</p> <p>2002 UN General Assembly resolution endorsed Kimberly Process Certification Scheme</p> <p>—— Phase II UN-Business partnerships launched at World Summit on Sustainable Development</p> <p>2003 WHO adopted the Framework Convention on Tobacco Control</p>

## Industry Self-Regulation

A series of major environmental disasters in the 1980s, including Bhopal in 1984 and Exxon Valdez in 1989, reignited interest in the need for an international code of conduct to monitor the working activities of TNCs. What emerged in practice centred heavily on industry self-regulation. From the late 1980s to the early 1990s several industry organizations and Northern-based business NGOs began to draft guidelines for their member companies to follow. In response to civil society anxieties and media pressure concerning the degeneration of the environment, most guidelines at the time focused on providing benchmarks and advice on improving the company's environmental performance and establishing sustainable business practices and frameworks. Yet as the 1990s approached and the scare stories concerning sweatshop abuses and labour violations surfaced, attention focused also on bad working conditions. This issue gave rise to a plethora of industry and individual company codes of conduct focusing on labour issues. This section outlines the main guidelines issued by industry and business organizations concerning, in particular, environmental and labour issues.

### Bundesverband der Deutschen Industrie e. V. Perspectives 2000

In 1992 German industry federation, the Bundesverband der Deutschen Industrie e. V. (BDI) launched their sustainable development guidelines for German companies entitled, "Perspectives 2000". The BDI concentrated on promoting environmental protection and advocating responsible use of natural resources at home and abroad. An underlying theme of the report concerns the responsibility of industrialized countries to help developing countries.

UNCTAD, 1996

### Business Charter for Sustainable Development

In 1991 the International Chamber of Commerce (ICC) developed the "Business Charter for Sustainable Development—Principles for Environmental Management", a voluntary set of guidelines for member companies. The Charter is comprised of 16 principles that are intended to provide an environmental benchmark for enterprises that wish to improve their environmental performance. The ICC Charter openly commits to adherence of the "precautionary principle" approach whereby it suggests that decisions should be made on the "basis of scientific and technical understanding, to prevent serious or irreversible environmental degradation". That said, the ICC does not operate as an enforcement body. It only promotes the Charter as a set of "good practices".

[http://www.iccwbo.org/home/environment\\_and\\_energy/charter.asp](http://www.iccwbo.org/home/environment_and_energy/charter.asp)

### Caux Round Table Principles for Business

The Caux Round Table was established by a global network of senior business leaders from Europe, Japan and the United States of America in 1986. Together these leaders devised the "Caux Round Table Principles for Business", a set of seven principles that aims to be a CSR guideline for companies. By this, it encourages support for the Multilateral Trade Agreements in promoting respect for the environment. Based on two ethical ideals, namely *kyosei*<sup>2</sup> and human dignity, the

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<sup>2</sup> "The Japanese concept of *kyosei* means living and working together for the common good, enabling cooperation and mutual prosperity to coexist with healthy and fair competition. Human dignity refers to the sacredness

Principles also provide guidelines on how companies should treat their suppliers, communities, customers and employees.

<http://www.cauxroundtable.org>

### **CERES Principles**

The “CERES Principles” were established by the Coalition for Environmentally Responsible Economies (CERES) in 1989 to provide a corporate environmental responsibility benchmark for companies to follow. This ten point environmental code of conduct provides guidelines on what companies should do to become sustainable producers and consumers. By endorsing the CERES Principles companies commit themselves to environmental reform. Such CERES Endorsing Companies, as they are known, receive awards for their environmental improvements and reporting. There are currently 73 CERES Endorsing Companies (Web site accessed on 4 June 2004).

[http://www.ceres.org/our\\_work/principles.htm](http://www.ceres.org/our_work/principles.htm)

### **Charter for Environmental Action in the Hotel Industry**

The International Hotel Environmental Initiative (IHEI) was established in 1992 after twelve hotel executives decided to promote environmental management. By pooling resources, experiences and expertise, the IHEI aims to provide a tool-kit of environmental tips and best practices for the hotel industry to adopt, under the guidance of the “Charter for Environmental Action in the Hotel Industry”. *Green Hotelier*, a magazine published by the IHEI, is responsible for disseminating environmental information and advice that is laid out in the Charter.

<http://www.insula.org/tourism/ihei.htm>

### **Charter of Ethics for Tourism and the Environment**

The “Charter of Ethics for Tourism and the Environment” was jointly spearheaded by the Alliance Internationale de Tourisme and the Fédération Internationale de l’Automobile in 1992. Among other guidelines concerning environmental protection, such as the 1999 Global Code of Ethics for Tourism and UNESCO’s Charter for Sustainable Tourism, the Charter advocates good stewardship when travelling abroad, especially in respect to the host countries’ cultural and environmental specificities.

<http://www.tec-conseil.com/docsPDF/ttra.PDF>

### **Code of Conduct for the Tea Sector**

The International Union of Food, Agriculture, Hotels, Restaurants, Catering, Tobacco and Allied Workers’ Association (IUF) drafted the first code of conduct for the tea sector in 1995. This 14-point plan asks for the fundamental human rights relating to the core ILO conventions to be adhered to by the tea industry. However, there are a few components that are normally not seen in codes of conduct. For example, point 13 calls for the children of workers to have “access to a crèche and school within a reasonable walking distance”.

<http://www1.umn.edu/humanrts/links/teacode.html>

### **Declaration of the Business Council for Sustainable Development**

In 1992, the Business Council for Sustainable Development (BCSD) published their “Declaration of the Business Council for Sustainable Development”, a voluntary plan of action that stressed the need to combine sustainable development objectives with economic growth. Amid the recommendations, the Declaration asserts that pricing mechanisms should incorporate environmental costs. Two years later, the BCSD merged with the World Industry Council for the Environment to become the World Business Council for Sustainable Development.

<http://www.wbcsd.ch/templates/TemplateWBCSD2/layout.asp?type=p&MenuId=NDEx&doOpen=1&ClickMenu=LeftMenu>

### **International Council of Toy Industries Code of Business Practice**

In 1995 the International Council of Toy Industries devised the “Code of Business Practice” that sets out a range of guidelines for toy industry factories. The Code is divided into three sections; labour, workplace issues and compliance. Within these sections human, labour, health and safety and environmental rights are outlined for toy factories to adopt and follow. Importantly, the Code was developed to influence local and national government to ensure that there are adequate wage, factory, health and safety laws. Since 1995, the Toy Industry of Europe has created their Code of Business Practice (1997), which is akin to the International Council of Toy Industries’ code.

<http://www.toy-icti.org/mission/bizpractice.htm>

### **International Council on Mining and Metals’ Charters**

In 1993, the International Council on Metals and the Environment that later became the International Council on Mining and Metals (ICMM) produced their first voluntary “Environmental Charter” for member companies. Split into two areas, namely environmental stewardship and product stewardship, the recommendations focused on promoting good environmental management within the mining and metals industry. Seven years later, the ICMM launched the “Sustainable Development Charter”.

[http://www.icmm.com/icmm\\_principles.php](http://www.icmm.com/icmm_principles.php)

### **International Fertilizer Industry Association’s Mission Statements on Sustainable Development**

Prior to the United Nations Conference on the Environment and Development that took place in 1992 and the subsequent World Summit on Sustainable Development that took place in 2002, the International Fertilizer Industry Association put forth their mission statements on Sustainable Development in 1990 and 2002, respectively. In 1990, this statement was formally inaugurated as the “Vancouver Communiqué”, based on the industry’s 58<sup>th</sup> Annual Meeting that took place in Vancouver, Canada.

<http://www.fertilizer.org/ifa/publicat/html/unced2.htm>

### **International Iron and Steel Institute's Policy Statements on Sustainable Development**

Akin to the developments of the International Fertilizer Industry Association the International Iron and Steel Institute (IISI) also established industry regulation before the two summits on sustainable development. The IISI's voluntary guidelines were delivered in the "Policy Statements on Sustainable Development" that were inaugurated in 1992 and 2002, respectively.

<http://www.sustainablesteel.org>

### **International Road Transport Union Charter for Sustainable Development**

In 1996 and in 2002, the International Road Transport Union (IRU) "Charter for Sustainable Development" was promoted industry-wide at all levels. The so-called "Three I's" approach, which has been endorsed by UNEP, outlines the IRU's cost-effective strategy for sustainable development as innovation, incentives and infrastructure.

<http://www.iru.org/Presenting/Welcome.E.html>

### **Keidanren Global Environment Charter**

The Keidanren (Japanese Federation of Economic Organizations) Global Environment Charter was developed in 1991 in order to help Japanese companies incorporate sustainable development objectives into their mission. The Charter lays out several plans of action for companies based on a variety of relevant social and environmental issues. For example, companies are encouraged to introduce environmental technology and promote technology transfers. Additionally, companies are expected to contribute to the formulation of public policy, strengthen community relations and provide assistance for environmental emergencies. The Charter also states that companies should be mindful of global issues and help implement international measures concerning poverty and over-population in developing countries, when their assistance is sought.

<http://www.keidanren.or.jp/english/speech/spe001/s01001/s01b.html>

### **Keidanren's Ten-Point-Environmental Guidelines for Japanese Companies Operating Abroad**

In 1994, Keidanren also produced a "Ten-Points-Environmental Guidelines for Japanese Companies Operating Abroad". In addition to improving environmental management systems, Japanese companies are requested to educate their domestic workers about the importance of good environmental management systems abroad and how a domestic company can affect their overseas clients. Within the plan it also states that Japanese companies should establish a support system where specialists can be sent abroad whenever the need arises.

<http://www.keidanren.or.jp/english/speech/spe001/s01001/s01b.html>

### **Responsible Care Ethic and Codes of Practice**

Responsible Care® is a voluntary initiative that works with the global chemical industry. It aims to promote social and environmental responsible management by providing generic guidelines under its “Ethic and Codes of Practice”. The Ethic and Codes of Practice also acts as a template for individual industry codes of conduct. Since its inception in Canada in 1987 after the Bhopal disaster, Responsible Care has spread across 45 countries. Each country has implemented their strategy by focusing on their main chemical management problem. Importantly, Responsible Care collects data from companies regarding their performance and implementation methods. Companies are re-verified every three years and a National Advisory Committee has been created to increase information sharing and dialogue.

<http://www.ccpa.ca/ResponsibleCare>

### **World Diamond Council Resolution on Conflict Diamonds**

The World Diamond Council was established in July 2000 to monitor the progress of the joint resolutions put forward by the World Federation of Diamond Bourses and the International Diamond Manufacturing Association. The Resolution outlined the steps for the prevention of rough diamonds from entering the market. The draft also calls for industry and partner compliance. It requests that “redline” legislation (whereby diamonds are checked, sealed and registered) is endorsed, and confirms that a code of conduct should be adopted. Resultantly, many diamond companies have begun to construct their own codes of conduct based on the Resolution’s guidelines.

<http://www.worlddiamondcouncil.com/antwerp.shtml>

### **World Federation of the Sporting Goods Industry Model Code of Conduct**

There are some similarities between the FIFA Code of Labour Practices and the World Federation of the Sporting Goods Industry’s Model Code of Conduct. Both are sports specific and require members to adopt the ILO core conventions. The 2000 revised edition of the Model Code of Conduct includes a guideline on collective bargaining and reiterates the need for third party monitoring. Additionally, it includes a provision concerning physical, sexual, psychological and verbal abuse in the workplace, an issue that is not mentioned in the FIFA code of labour practice.

[http://www.wfsgi.org/\\_wfsgi/new\\_site/about\\_us/codes/Code\\_Conduct.htm](http://www.wfsgi.org/_wfsgi/new_site/about_us/codes/Code_Conduct.htm)

### **World Travel and Tourism Council’s Agenda 21 for the Travel and Tourism Industry**

Four years after Agenda 21 was inaugurated at United Nations Conference on the Environment and Development in Rio de Janeiro, Brazil, the World Travel and Tourism Council together with the World Tourism Organization and the Earth Council published their response to Conference’s recommendations, entitled, “Agenda 21 for the Travel and Tourism Industry: Towards Environmentally Sustainable Development”. The guidelines are based on promoting sustainable patterns of production and consumption, conservation, protection and restoration of the global ecosystem.

<http://www.wttc.org/promote/agenda21.htm>



**Worldwide Responsible Apparel Production Principles (WRAP)**

In 1997, The American Apparel Manufacturers Association developed the Worldwide Responsible Apparel Production Principles (WRAP). The WRAP Production Principles dictate that garments and footwear should be produced under lawful, humane and ethical conditions. Twelve WRAP Production Principles need to be addressed by manufacturers in order to obtain certification, under the WRAP Certification Program. Certification takes a three-pronged approach: self-assessment, independent monitoring and final review and follow-up. By February 2004 there were 19 participant organizations from the Americas and the Caribbean.

**<http://www.wrapapparel.org/index.cfm?page=principles>**

## Multilateral Regulation

Within its mandate, the United Nations has established rules and regulations that protect global citizens. Although its rules were not written directly for TNCs, some United Nations' conventions and treaties are applicable to TNCs indirectly. Member States have an obligation under international law to ensure that their domestic companies adhere to the international laws of the United Nations. In addition, some conventions acknowledge corporate entities by using the term "non-state actors".<sup>3</sup> A more explicit acknowledgement of a for-profit business appears in the Convention to Eliminate the Discrimination of Women (1979), which states under Article 2(e) that appropriate measures must be taken "to eliminate discrimination against women by any person, organization or enterprise".

Historically there has been little reference to United Nations conventions by TNCs. When the United Nations was created the geopolitical and economic climate was locked in the midst of the Cold War. TNCs did not have the enormous politico-economic presence they do today. Presently, some TNCs have established closer links with the United Nations and since the inception of the United Nations Global Compact and other UN-inspired multistakeholder initiatives that make reference to UN conventions, some TNCs have begun to accept that international law imposed by the United Nations concerning social, environmental and human rights can have a bearing on their working practices. This section will outline the multilateral initiatives that relate to the working activities of TNCs.

### Agenda 21, 1992

Agenda 21 came out of the United Nations Conference on the Environment and Development that took place in Rio de Janeiro, Brazil in 1992 that was organized to bring the question of sustainable development to the forefront of development. Importantly, this non-binding legal agreement was designed and targeted at the global, national and local level. Interestingly, many social, economic and environmental issues raised in Agenda 21 are specifically applicable to TNCs. Specifically, Chapter 30, "Strengthening the Role of Business and Industry," directly concerns the operations of TNCs. Agenda 21 Recommendations also suggest that TNCs and other industrial actors should "report annually on their environmental record as well as on their use of energy and natural resources". The 1992 Rio Declaration on Environment and Development and the Forest Principles, both non-binding agreements, also aimed at promoting sustainable development with implications for business.

<http://habitat.igc.org/agenda21/a21-30.htm>

### Code of Conduct for Responsible Fisheries, 1995

The Food and Agricultural Organization (FAO) established the "Code of Conduct for Responsible Fisheries" in 1995. This voluntary code aims to promote responsible fishing by addressing the social, environmental, economic, commercial, biological and technological aspects associated with fishing. The code is designed to assist both producers and consumers by ensuring that conservation techniques are implemented and maintained, and food security and quality are rigorously

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<sup>3</sup> See, for example, the Universal Declaration of Human Rights (1948), Article 29.

pursued. An important feature of the Code of Conduct for Responsible Fisheries is the reference to special and differential treatment for developing countries.<sup>4</sup> This code has relevance for TNCs in the fishing sector and under the FAO's International Plan of Action, specific companies' governments and fishery bodies are responsible for the implementation of the code. The FAO Committee on Fisheries is responsible for the monitoring of all parties' application of the code.

<http://www.fao.org/fi/agreem/codecond/codecon.asp>

### **Codex Alimentarius Commission Food Standards, 1963**

The Codex Alimentarius Commission was developed by the Food and Agricultural Organization and the World Health Organization (WHO) in 1963 in an attempt to formulate universal food standards. The "food code agency" has been well received by the food industry community and NGOs, and it also received United Nations endorsement in 1985 under the UN General Assembly Guidelines for Consumer Protection (A/RES/39/248). Its main concerns are consumer health protection and fair trade practices in the food trade. It also seeks to help co-ordinate work on food standards undertaken by international governmental and non-governmental organizations. Data for 1999 detailing what Codex Alimentarius comprises reveal there are 3,274 limits for pesticide residues, 237 food standards for commodities, and 54 veterinary drugs have been evaluated (Web site accessed on 9 July 2004).

<http://www.codexalimentarius.net>

### **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1987**

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is one of many UN mechanisms that concentrate on protecting people from abuse and torture. The connection with TNCs may seem from the outset weak but many recent reports have pointed to the inhuman treatment of workers in sweatshops, factories and other places of work. Together with the following conventions, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment provides a strong legal argument opposing any form of physical and mental harm to people.

- Universal Declaration of Human Rights, 1948: Article 5, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment".
- The International Covenant on Civil and Political Rights, 1976: Article 7, "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation".

<http://www.un.org/documents/ga/res/42/a42r123.htm>

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<sup>4</sup> This has been stated under Resolution 4/95 of the FAO Conference recalling Article 5 of the code, in addition to a plea for the FAO to set up an inter-regional assistance programme for external assistance (<http://www.fao.org/fi/agreem/codecond/codecon.asp>).

### **Convention for the Protection of the World's Cultural and Natural Heritage, 1972**

The United Nations Educational, Scientific and Cultural Organization (UNESCO) adopted the Convention for the Protection of the World's Cultural and Natural Heritage in 1972. It is one of the few international pieces of legislation that concentrates on preserving the culture and heritage of people and places. Under Articles 1 and 2, Member States are obliged to do their utmost to protect the cultural heritage of their people and land. The Convention for the Protection of the World's Cultural and Natural Heritage has bearings on the tourism, energy, medical, food and beverage industries to name a few. For example, research has focused on the plight of the Ogoni people of Nigeria and the U'wa people of Colombia in their struggle for their ancestral land and human rights against transnational oil companies. Other studies have addressed the issue of the appropriation of indigenous peoples' intellectual knowledge regarding natural medicines. In addition, research has looked at bio-piracy of plants and other naturally occurring species that originate in many developing countries by large biotech TNCs.

[http://whc.unesco.org/world\\_he.htm](http://whc.unesco.org/world_he.htm)

### **Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention), 1998**

Based on principles from the Stockholm Declaration on the Environment and the Rio Declaration on Environment and Development, the "Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters" was adopted in Aarhus, Denmark in 1998, representing an important legal instrument for environmental protection and citizen rights. The Convention states that citizens must have complete "access to information, be entitled to participate in decision-making and have access to justice in environmental matters". It suggests that citizens "may need assistance in order to exercise their rights". In addition, the Convention recognizes specifically that members of society, including the private sector, are responsible for environmental protection.

In March 2003, a legally binding protocol to the Aarhus Convention was adopted and signed by 36 countries and the European Community (see the Pollutant Release and Transfer Register (PRTR) Protocol). The Aarhus Convention's Compliance Committee entered a new phase in May 2004 when it began to consider communications submitted to it by NGOs alleging non-compliance with the Convention.

<http://www.unece.org/env/pp>

### **Convention on the Elimination of All Forms of Discrimination against Women, 1979**

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was formed in 1979 and became an international treaty in 1981. In light of global trends in manufacturing and service sector industries associated with increasing female employment, its relevance to the CSR debate is clear. The following six articles are especially pertinent:

- Article 5: Convention on Sex Role Stereotyping and Prejudice
- Article 6: Convention on Prostitution
- Article 10: Convention on Education
- Article 11: Convention on Employment
- Article 12: Convention on Health
- Article 13: Convention on Economic and Social Benefits

Over 170 countries have ratified this treaty. As a result, several national governments have endorsed CEDAW and included elements of the Convention within their national legislation.

<http://www.un.org/womenwatch/daw/cedaw/cedaw.htm>

### **Convention on the Law of the Sea, 1994**

The 1982 United Nations Convention on the Law of the Sea entered into force in 1994 after it was ratified by 60 countries. It established guidelines that aim to safeguard the sea and oceans from over-use and pollution. The Convention governs diverse aspects of ocean space, for example, environmental control, marine scientific research, economic and commercial activities, and the settlement of disputes relating to ocean matters. As of March 2004, 145 countries had ratified the Convention. This Convention predominately affects the fishing, mining, oil, gas and shipping industries.

[http://www.un.org/Depts/los/convention\\_agreements/texts/unclos/closindx.htm](http://www.un.org/Depts/los/convention_agreements/texts/unclos/closindx.htm)

### **Convention on the Rights of the Child, 1989**

The Convention on the Rights of the Child concentrates on placing the rights of the child at the forefront of international thinking on development and human rights issues. Created in 1989, this legally binding instrument attempts to ensure that all children's rights are realized and maintained. Its importance for both Member States and TNCs is evident in light of the 2002 ILO report "A Future Without Child Labour" which reports that, "*out of 246 million children—one in every six children aged 5 to 17—are involved in child labour*" (ILO 2002) and "*one in every eight children in the world—some 179 million children aged 5–17—is still exposed to the worst forms of child labour which endanger the child's physical, mental or moral well-being.*" (ILO 2002). The Convention addresses child prostitution, domestic servitude, child trafficking, drug trafficking, child pornography and children in armed conflict and many other child-related abuses. Some of these issues have direct and indirect links with TNCs, notably in situations where child labour has been used either in affiliates or suppliers.

<http://www.unhchr.ch/html/menu3/b/k2crc.htm>

### **Ethical Criteria for Medicinal Drug Promotion, 1988**

In 1988 the World Health Organization adopted the Ethical Criteria for Medicinal Drug Promotion. These guidelines are intended to ensure “ethical” standards are upheld in all medicinal promotions and promotional activities. It also ensures that drug promotion is maintained in tandem with national health policy requirements. In addition, it indirectly attempts to bring elements of cultural issues into public policy by clarifying that in certain countries and situations where traditional medicine has proven to be successful, this should continue. This is supplemented by advising national drug policies to be context specific and strive towards meeting equity of access, good quality and safe merchandise and promoting a rational use of drugs. Evidently this document addresses several areas of interaction or tension between the basic health needs at the community level and the role of transnational pharmaceutical companies. Recent media attention surrounding the need for low-cost anti-retroviral drugs for HIV/AIDS patients in African countries has highlighted the issue of cheap, accessible medicine, and the pertinence of this regulation for drug companies.

<http://www.who.int/medicines/library/dap/ethical-criteria/ethicalen.shtml>

### **Framework Convention on Climate Change, 1992**

The United Nations Framework on Climate Change also known as the Climate Change Convention was adopted in 1992 and entered into force in 1994. This Convention specifically addresses the changes in the global climate. Its relevance in the CSR debate is especially acute for manufacturing sectors and other industries that burn fossil fuels. In addition, a framework for action, namely the Kyoto Protocol, was adopted in 1997 with over 84 signatures. The Kyoto Protocol is unique in that it imposes legally binding constraints on levels of greenhouse gas emissions on Annex 1 parties.<sup>5</sup> Such parties are expected to take proactive steps to reduce their emission levels to at least 5 per cent of their 1990 level (baseline) by 2008–2012 (commitment period). Evidently, this supplementary standard strengthens the Convention and places great emphasis on the State to curb TNCs that emit high levels of waste. It is required that Member States introduce new domestic policies to ensure these goals are met, although as the past has shown, it is hard to introduce new standards that may negatively affect short-term profits.

<http://unfccc.int/resource/conv/>

### **Framework Convention on Tobacco Control, 2003**

The Framework Convention on Tobacco Control was the first international treaty that had direct implications for TNCs. After decades of political wrangling the Convention was adopted in May 2003 by the World Health Assembly after a unanimous affirmative vote by 192 World Health Organization members. Crucially, it imposes restrictions on advertising, promotional activities and sponsorship, while also demanding new labelling systems and air controls. In addition, the text states clearly that attempts should be made to prevent tobacco smuggling.

<ftp://ext-ftp.fao.org/ag/cgrfa/it/ITPGRe.pdf>

<http://www.who.int/tobacco/fctc/text/final/en/>

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<sup>5</sup> An Annex 1 Party is a “Party” referred to in Annex 1 of the Convention.

## Global Compact, 2000

The Global Compact is defined as “a value-based platform designed to promote institutional learning” (Global Compact 2000). It is not a binding initiative but rather an opportunity for companies to showcase their “best practices” and learn from others. The Global Compact addresses three main issues; human rights, the environment and labour rights which are addressed within nine principles. Each issue draws on a specific UN legislation. The Universal Declaration of Human Rights, the Rio Principles on the Environment and Development and the ILO’s Fundamental Principles on Rights at Work are all referred to and used as benchmarks for the nine principles. The Global Compact is the most explicit UN initiative that addresses corporate social responsibility. To date, the Global Compact has received considerable acknowledgment from industry, industry groups and some members of civil society. The Global Compact is one of the few CSR initiatives that extends to the international, regional, national and local level. There are currently 1,634 participants of the Global Compact (Web site accessed on 7 June 2004).

Issue	International benchmark	The Global Compact's Nine Principles
Human Rights	The Universal Declaration of Human Rights	Principle 1: support and respect the protection of internationally proclaimed human rights within their sphere of influence Principle 2: make sure they are not complicit in human rights abuses.
Labour	ILO Fundamental Principles on Rights at Work	Principle 3: uphold freedom of association and effectively recognize the right to collective bargaining Principle 4: promote the elimination of all forms of forced and compulsory labour Principle 5: promote the effective abolition of child labour Principle 6: uphold the elimination of discrimination in respect of employment and occupation.
Environment	Rio Principles on the Environment and Development	Principle 7: support a precautionary approach to environmental challenges Principle 8: undertake initiatives to promote greater environmental responsibility Principle 9: encourage the development and diffusion of environmentally friendly technologies

In June 2004, at the Global Compact Summit, anti-corruption became the 10<sup>th</sup> Global Compact principle. This decision reflects the United Nations Convention against Corruption that was adopted in October 2003.

<http://www.unglobalcompact.org/Portal/Default.asp>

### **ILO Declaration on Fundamental Principles and Rights at Work, 1998**

The International Labor Office (ILO) Declaration on Fundamental Principles and Rights at Work (ILO Fundamental Principles) are a set of principles concerned with ensuring that the social needs of society are not neglected in the workplace. Based on a selection of core ILO conventions, the Fundamental Principles were adopted in 1998 and have become a benchmark for other corporate responsibility initiatives including the United Nations Global Compact. Under the Global Compact's topic of "labour," principles 3–6 draw on the ILO Fundamental Principles.

<b>ILO Declaration on Fundamental Principles and Rights at Work</b>
Convention 87: Freedom of Association and Protection of the Right to Organize Convention, 1948
Convention 98: Right to Organize and Collective Bargaining Convention, 1949
Convention 29: Forced Labour Convention, 1930
Convention 105: Abolition of Forced Labour Convention, 1957
Convention 138: Minimum Age Convention, 1973
Convention 182: Worst Forms of Child Labour Convention, 2000
Convention 111: Discrimination Employment and Occupation Convention, 1958
Convention 100: Equal Remuneration Convention, 1951

The Principles encourage all states, regardless of their political or economic stature, to respect the Declaration. As part of its monitoring process, governments are asked to submit follow-up reports on progress made since the implementation of the Fundamental Principles.

<http://www.ilo.org/public/english/standards/decl/declaration/text/>

### **International Code of Marketing of Breast-Milk Substitutes, 1981**

In 1981, the United Nations Children's Fund (UNICEF) and the World Health Organization jointly instituted the International Code of Marketing of Breast-Milk Substitutes. This was born out of the consumer pressure that developed in the 1960s and 1970s in Europe concerning the aggressive promotion of infant formulas in developing countries and adverse impacts on breast-feeding and infant nutrition. Within its remit, the Code is responsible for monitoring the marketing of all partial or total breast-milk substitutes, infant formulas, bottles and teats. It aims to ensure that mothers are provided with independent and honest information concerning breast-feeding. Owing to its focus on marketing, the UNICEF/WHO code is also concerned with advertising methods, labelling language and quality of merchandise. It has issued a ban on the issuing of free samples to mothers as well as gift promotions to health officials, although both strategies still appear to be adopted by some TNCs. As of 2001, 55 countries had reportedly incorporated the Code or many of its provisions in national legislation.

[http://www.who.int/nut/documents/code\\_english.PDF](http://www.who.int/nut/documents/code_english.PDF)



### **International Covenant on Economic, Social and Cultural Rights, 1966**

The International Covenant on Economic, Social and Cultural Rights was written in 1966 in accordance with the UN Charter (1945) and the Universal Declaration of Human Rights (1948). The list below highlights some of the relevant articles that relate to corporate social responsibility.

- Article 6: Right to work (free choice of employment)
- Article 7: Right to just and favourable working conditions. Right to rest, leisure and reasonable limitations of working hours.
- Article 8: Right to form and join free trade unions
- Article 10: Protection from children from exploitation (prohibiting harmful work and minimum age for employment)
- Article 11: Right to adequate food intake (in quality and quantity)
- Article 11 (1): Right to adequate housing
- Article 12: Right to the highest attainable standard of health
- Article 13. Right of everyone to education

[http://www.unhchr.ch/html/menu3/b/a\\_cescr.htm](http://www.unhchr.ch/html/menu3/b/a_cescr.htm)

### **International Standards of Accounting and Reporting, 1989**

In 1989, the United Nations Intergovernmental Working Group of Experts on International Standards of Accounting and Reporting (ISAR) began to look into the potential of environmental accounting procedures at the enterprise level. Two years later they established the first ISAR guide on environmental reporting. One of the most significant ISAR recommendations has been ISAR's Position Paper on "Accounting and Financial Reporting for Environmental Costs and Liabilities" that was published in 1998. Following on from this, in 2004 UNCTAD released a set of new guidelines on corporate environmental accounting in the form of a manual. "A Manual for the Preparers and Users of Eco-Efficiency Indicators" was launched in February 2004. In 2003 ISAR began to consider the societal impacts of corporations and indicators of corporate social responsibility, as well as the quality of social reporting.

[http://www.unctad.org/en/docs//iteipc20037\\_en.pdf](http://www.unctad.org/en/docs//iteipc20037_en.pdf)

### **International Treaty on Plant Genetic Resources for Food and Agriculture, 2001**

The International Treaty on Plant Genetic Resources for Food and Agriculture was approved in 2001. Working in concord with the Convention on Biological Diversity (1992), it aims to promote conservation and the sustainable use of plant genetic resources for the food and agricultural industry, by ensuring that there is a fair and equal share of benefits. The treaty supports the saving, continual usage, exchange and selling of farm-saved seeds among farmers. The Treaty specifically states in its preamble that, "*nothing in this Treaty shall be interpreted as implying in any way a change in the rights and obligations of the Contracting Parties under other international agreements*" and it is "*not intended to create a hierarchy between this Treaty and other international agreements*". The Treaty entered into force on 29 June 2004.

<http://www.fao.org/ag/cgrfa/itpgr.htm#text>

### **North American Agreement on Labor Cooperation, 1994**

The North American Agreement on Labor Cooperation (NAALC) is a side agreement of the North American Free Trade Agreement (NAFTA) that came into force in 1994. Under the NAALC, the US, Canadian and Mexican governments agree to enforce their own labour laws and promote 11 worker rights principles. Provisions for sanctions, however, are limited. NAALC establishes a Commission that includes a cabinet-level Ministerial Council and a permanent secretariat. National Administrative Offices in the Labour Ministry in each country serve as focal points, provide information, and co-ordinate educational, research and technical assistance activities. They are also involved in complaints procedures, vetting the validity of complaints, looking into complaints that are accepted for review, and writing a report. An NAO can recommend cabinet-level consultations to consider a case but these have usually resulted in further hearings, consultations and research and educational activities.

<http://www.ilo.org/public/english/employment/gems/eeo/nafta/clc.htm>

### **OECD Convention on Fighting Bribery of Foreign Officials in International Business Transactions, 1997**

The Organization for Economic Co-operation and Development (OECD) Convention on Fighting Bribery of Foreign Officials in International Business Transactions (henceforth, the OECD Convention) was adopted in 1997 in order to monitor and prevent transnational bribery. The OECD Convention stipulates that signatories must draw up national legislation that criminalizes bribery of foreign public officials in connection with international business transactions. All OECD member states have signed this convention including at the time, five non-OECD member states, namely, Argentina, Brazil, Bulgaria, Chile and the Slovak Republic. As of March 2004, 35 countries had ratified this convention.

[http://www.oecd.org/document/21/0,2340,en\\_2649\\_34859\\_2017813\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/21/0,2340,en_2649_34859_2017813_1_1_1_1,00.html)

### **OECD Guidelines for Multinational Enterprises, 1976, amended 2000**

The Organization for Economic Co-operation and Development Guidelines for Multinational Enterprises is intended to help steer businesses towards good social and economic conduct. Originally adopted in 1976, the Guidelines addressed nine areas of business conduct, notably; employment and industrial relations, the environment, combating bribery, consumer interests, science and technology, competition and taxation. In its 2000 review, new human rights considerations were introduced concerning the elimination of child and forced labour. Additionally, more requirements have been made concerning the environment, specifically, calls for the improvements of internal environmental management systems and greater disclosure of environmental information. In fact, the 2000 review places more emphasis on the importance of national legislation in the host country and flags the need for TNCs to be aware of the relevant United Nations human rights conventions and treaties. Yet like many other multilateral initiatives, the OECD Guidelines for Multinational Enterprises are a non-binding legal instrument although its implementation procedure is binding on OECD Member States. Certain implementation mechanisms were strengthened particularly after the 2000 review, the role of National Contract Points. National Contract Points (often a government office) are responsible for promoting observance of the Guidelines, gathering information, and facilitating the resolution of

problems relating to implementation. They meet annually and report to the Committee on International Investment and Multinational Enterprises.

[http://www.oecd.org/document/49/0,2340,en\\_2649\\_34813\\_31530865\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/49/0,2340,en_2649_34813_31530865_1_1_1_1,00.html)

### **OECD Principles of Corporate Governance, 1999**

The OECD Principles of Corporate Governance was adopted in 1999 in order to provide for OECD Member States with corporate governance guidelines. The Principles are aimed, in particular, at publicly traded companies. However, it also extends to privately and state-owned enterprises. Although its main intention is to provide guidance on the institutional, legal and regulatory framework the Principles do include a statement relating to social and environmental issues. The Principles advocate for an accurate and transparent disclosure system that would provide information on all material matters concerning the corporation; respect for the host communities and among other things, promotion of ethical and environmental standards.

[http://www.oecd.org/document/49/0,2340,en\\_2649\\_34813\\_31530865\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/49/0,2340,en_2649_34813_31530865_1_1_1_1,00.html)

### **Other Relevant ILO Conventions and Recommendations**

It is stated within the Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy that all parties should adhere to the constitution of the ILO and its other principles. The eleven ILO Conventions included below relate directly to corporate social responsibility and occasionally, some are referred to in codes of conducts, the most frequent references concerning occupational health and safety. The Conventions span a variety of important labour and human rights and some make direct connections with the work associated with TNCs. As previously stated, the ILO Conventions are not legally binding instruments.

- Convention No. 110: Plantations Convention, 1958
- Convention No. 148: Working Environment, Convention, (Pollution, Noise and Vibration), 1977
- Convention No. 161: Occupational Health Services Convention,
- Convention No. 162: Asbestos Convention, 1986
- Convention No. 167: Safety and Health in Construction, 1988
- Convention No. 169: Indigenous and Tribal Peoples
- Convention No. 170: Chemicals Convention, 1990
- Convention No. 174: Prevention of Major Industrial Accidents Convention, 1993
- Convention No. 176: Safety and Health in Mines, 1995
- Convention No. 183: Maternity Protection Convention, 2000
- Convention No. 184: Safety and Health in Agriculture Convention, 2001

The ILO under its InFocus Programme on Safety and Health at Work and the Environment has developed a project called “SafeWork” that concentrates on the health and safety problems in the workplace. There are over 70 conventions and recommendations that focus on occupational health and safety issues. In addition, the ILO has produced approximately 35 codes of practice that work alongside the relevant conventions and recommendations, providing practical advice on procedures and systems that should be implemented.

<http://www.ilo.org/public/english/protection/safework/>

### **Pollutant Release and Transfer Register Protocol, 2003**

The Pollutant Release and Transfer Register (PRTR) Protocol obliges each state party to establish a register to record the releases and transfers of up to 86 toxic pollutants. The Protocol calls for mandatory reporting by governments who, in turn, must oblige certain industries and sectors to report. The objective of the Protocol is “to enhance public access to information through the establishment of coherent, nationwide PRTRs ...” Annual reporting will also be conducted on company activities where pollution is most prevalent. It has been suggested that future reporting may focus on other forms of pollution sources, for example, agriculture and traffic congestion.

[http://www.developmentserver.com/iheal/10-16-02Eco\\_report.htm](http://www.developmentserver.com/iheal/10-16-02Eco_report.htm)

### **Rotterdam Convention on Prior Informed Consent, 1998**

The Rotterdam Convention on Prior Informed Consent (PIC) was adopted in 1998 in order to regulate and minimize the amount of hazardous chemicals and pesticides. Both the United Nations Environment Programme and the Food and Agriculture Organization are responsible for its implementation. The Convention builds on the FAO’s International Code of Conduct on the Distribution and Use of Pesticides (1990) and adds to the London Guidelines for the Exchange of Information on Chemicals in International Trade (1987). The Convention stipulates that, “export of chemicals can only take place with the prior informed consent of the importing party”. It predominately affects the chemicals and pesticide industry. The Rotterdam Convention entered into force in February 2004.

<http://www.pic.int>

### **Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices, 1980**

The United Nations Conference on Restrictive Business Practices, held in 1980, approved the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices, which were adopted by the General Assembly the same year. Established at a time when many developing countries were calling for a New International Economic Order, the Principles’ main concern was to ensure that “restrictive business practices do not impede or negate the realization of benefits that should arise from the liberalization of tariff and non-tariff barriers affecting world trade, particularly those affecting the trade and development of developing countries”. It refers specifically to the need to eliminate the disadvantages which may result from the restrictive business practices of TNCs and other enterprises and to protect and promote social welfare and the interests of consumers in both developed and developing countries (UNCTAD Web site accessed on 25 June 2004).

<http://r0.unctad.org/en/subsites/cpolicy/docs/CPSet/cpsetp4a.htm>

### **Slavery Convention, 1927**

The Slavery Convention was the first convention to address the problem of slave labour and servitude. It was followed by a series of conventions and protocols that together provide a forceful package of international legislation that explicitly defines slavery as illegal and immoral. The issue of slavery is still relevant today. Recent reports have highlighted the growing numbers of people affected by various forms of

slavery and servitude and some have made direct connections with TNCs (see [www.antislavery.org](http://www.antislavery.org)), paying less attention to the extractive, energy and tourism industries, even though these have also been proven to be relevant industries. Reports have mostly focused on food, beverage, sport, apparel and handicraft industries. Consequently, this emotive issue is still pertinent in today's world. A range of other UN conventions related to the issue of slavery and servitude exist. They include:

- International Convention for the Suppression of the Traffic in Women and Children, 1921
- Forced Labour Convention, 1930 (International Labour Office)
- Universal Declaration of Human Rights, 1948: Article 4, “no one shall be held in slavery or servitude; slavery and the slave trade slavery and the slave trade shall be prohibited in all their forms”.
- Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 1949
- Protocol amending the Slavery Convention, 1953
- Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1956
- Abolition of Forced Labour Convention, 1957
- International Covenant on Civil and Political Rights, 1976: Article 8 (1-3)
- International Convention against Transnational Organized Crime, 2000
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, 2000
- Protocol against the Smuggling of Migrants, 2000

<http://www.unhchr.ch/html/menu3/b/f2sc.htm>

### **Stockholm Convention on Persistent Organic Pollutants, 2001**

The Stockholm Convention on Persistent Organic Pollutants (POPs) was convened in May 2001 after 127 States adopted the Convention. Colloquially known as the POPs Convention, it aims to restrict and eventually eliminate the production and use of intentionally produced persistent organic pollutants (i.e. industrial chemicals and pesticides). It does this by establishing control mechanisms covering, production, import, export, disposal and the use of persistent organic pollutants. It is an important ruling as these pollutants have long-term ramifications for people's health. The United Nations Environment Programme is responsible for the operation of the POPs Convention. The Convention entered into force on 17 May 2004, launching a global campaign to eliminate 12 hazardous chemicals.

<http://www.pops.int/documents/press/EIF>

### **Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy, 1977 (amended 2000)**

The Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy draws on certain ILO Conventions and Recommendations that relate to labour and human rights. The MNE Declaration is one of the few UN initiatives that are specifically directed at promoting good social practice within TNCs. This voluntary code aims to encourage positive transnational behaviour by requesting that a minimum standard of labour and human rights be maintained. The Declaration draws its political strength from the tripartite partnership involving employers, governments and trade unions that form the basis of the ILO's work. Importantly, the

Declaration extends its reach to transnational parent companies, affiliates and business partners and consequently, is used as a benchmark for several multistakeholder codes of conduct.

The following conventions are referred to in the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy.

- Convention 87: Freedom of Association and Protection of the Right to Organize, 1948
- Convention 98: The Right to Organize and Collective Bargaining Convention, 1949
- Convention 105: Abolition of Forced Labour, 1957
- Convention 110: Conditions of Employment of Plantation Workers, 1958
- Convention 111: Discrimination in Respect of Employment and Occupation, 1958
- Convention 100: Equal Remuneration for Men and Women Workers for Work of Equal Value, 1951
- Convention 115: Protection of Workers against Ionizing Radiations, 1960
- Convention 119: Guarding of Machinery, 1963
- Convention 122: Employment Policy, 1964
- Convention 130: Medical Care and Sickness Benefits, 1969
- Convention 135: Protection and Facilities to be Afforded to Workers' Representatives in the undertaking, 1971
- Convention 136: Protection against Hazards of Poisoning arising from Benzene, 1971
- Convention 138 Minimum Age for Admission to Employment, 1973
- Convention 139: Prevention and Control of Occupational Hazards caused by Carcinogenic Substances and Agents, 1974
- Convention 142: Vocational Guidance and Vocational Training in the Development of Human Resources, 1975
- Convention 182: Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999

[http://www.ilo.org/public/english/standards/norm/whatare/lessfrml/dec\\_mne.htm](http://www.ilo.org/public/english/standards/norm/whatare/lessfrml/dec_mne.htm)

### **UN Guidelines for Consumer Protection, 1985, amended 1999**

In 1985 the United Nations General Assembly adopted the UN Guidelines for Consumer Protection under the responsibility of the United Nations Environment Programme (UNEP). In 1999 they were approved by 150 countries. This instrument provides guidelines on sustainable consumption.<sup>6</sup> It is the only UN document that considers the importance of ethical and sustainable consumption and it explicitly calls on industrialized countries to acknowledge this issue. Importantly, it also addresses the negative interplay between patterns of over-consumption in the industrialized countries and the developing world's high levels of poverty and inequality. A 2002 UNEP survey of 52 governments found that implementation of the Guidelines had been slow with over a third of the respondents unaware of their existence.

<http://www.unepie.org/pc/sustain/policies/consumser-protection.htm>

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<sup>6</sup> In 1999 the UN Guidelines for Consumer Protection were expanded to include Section G: Promotion of Sustainable Consumption (UN Assembly Decision 54/449).

### **United Nations Charter, 1945**

The mandate of the United Nations is drawn from the United Nations Charter (1945). The Charter sets out guidelines on peace and security, human rights, and social and economic justice. Despite being aimed directly at Member States it does have relevancy for TNCs, vis-à-vis their domestic “home” actions and operations in “host” countries. The UN Charter is also the founding document for all UN Conventions. Hence, non-compliance with UN conventions also conflicts with the Charter.

<http://www.un.org/aboutun/charter/>

### **Universal Declaration of Human Rights (UDHR), 1948**

Over the last decade there has been much media attention surrounding the direct link between transnational business activities and the violation of human rights. While the 1948 Universal Declaration of Human Rights applied to “every individual and organ of society”, including business enterprises, for many years it was seen as applicable primarily to national governments. More recently, the political climate has changed and there has been increased discussion regarding its relevancy for business. Consequently, there have been more calls on TNCs to endorse the Universal Declaration of Human Rights. Some TNCs now make reference to the Declaration and human rights principles in their company guidelines and codes of conduct, and the UN Global Compact draws on the Universal Declaration of Human Rights under Principle 1 and 2 (see Global Compact entry, page 19). Although TNCs are not directly referred to within the Universal Declaration of Human Rights, they can be seen to be included and held responsible within the UDHR’s reference to “other persons” under their statement “every individual and organ of society” (UDHR 1948).

<http://www.unhchr.ch/udhr/miscinfo/carta.htm>

## **Civil Regulation**

The 1990s witnessed an increase in standard-setting initiatives involving NGOs and collaborations between civil society groups and TNCs, including a variety of partnerships and multistakeholder initiatives. Some research has suggested that this new relationship was established in response to failed state regulation, while other studies have indicated that multistakeholder initiatives are innovative forms of “civil regulation” adapted to the new realities of globalization. NGO and multistakeholder initiatives are multifarious and have been born out of a variety of complimentary and conflicting situations. They include, for example, certification bodies, sectoral labelling schemes, factory monitoring, reporting guidelines and codes of conduct. Although this new approach appears to have numerous positive attributes, reports have also highlighted some drawbacks. Theoretically, it is difficult to argue against the benefits of dialogue and collaboration, but some studies have raised concerns regarding an organization’s motive and issues of equity in the dialogue process. Many CSR commentators have been pleased with the numerous standards that have been created, acknowledging that this is a sign of progress towards an improved regulatory environment. However, others have complained about duplication, suggesting that such excess leads to confusion. In short, it would seem that multistakeholder initiatives should be viewed in context in order to assess their validity. This section identifies various multistakeholder initiatives that now exist.

### **AA 1000**

AA1000 is a tool and standard for social and ethical accounting, auditing and reporting. The Institute of Social and Ethical Accountability established the AA1000 Framework in November 1999. AA1000 provides guidance on how an organization can improve its accountability and establish effective stakeholder engagement. Through training and dialogue, companies are encouraged to define goals and targets, measure progress made against these targets, audit and report on performance, and develop feedback mechanisms. Building on the AA1000 Framework, the AA1000 Series includes a specialized module for accountancy purposes. In March 2003 the AA1000 Assurance Standard was designed to complement the Global Reporting Initiative’s Guidelines.

<http://www.accountability.org.uk/>

### **Amnesty International UK Business Group’s Principles for Business**

In 1991 Amnesty International UK Business Group developed a set of Principles for Business that aim to encourage companies to become more aware of their responsibilities by upholding the human rights of their employees at home and in host communities. Akin to Amnesty International’s main mission which is to protect the human rights of every individual, based on the Universal Declaration of Human Rights (1948), the “Principles for Business” also makes reference to the Declaration, requesting companies comply with its guidelines. Under the Principles, companies are expected to commit to protecting human rights and security in their company policy. The Principles also state that relevant company policy should be independently monitored and audited.

<http://www.amnesty.org.uk/business/index.shtml>



### **Clean Clothes Campaign Code of Labour Practices**

The Clean Clothes Campaign (CCC) is an international campaign and network of NGOs, trade unions, garment worker coalitions and other organizations that seek to raise labour standards in the supply chains of European garment and sportswear retailers and promote independent verification to ensure compliance with their code. The CCC Code of Labour Practices was developed in 1998. The code draws extensively from the core ILO labour standards (Convention 29, 87, 98, 100, 105, 111, 138) that promote a living wage and decent wage conditions. In addition to adopting the code, companies have to validate their commitment by endorsing an independent monitoring system. In tandem, CCC organizations in France, the Netherlands, the UK and Switzerland are currently working on fine-tuning their code implementation, monitoring and verification procedures under a pilot scheme with European retailers.

<http://www.cleanclothes.org/codes/ccccode.htm>

### **ETI Base Code**

In 1998, the UK based Ethical Trading Initiative (ETI) developed a code of conduct for member companies to follow. Companies, trade unions and NGOs collaborated in the creation of the Code. The Base Code concentrates on labour issues and draws significantly from the ILO core labour conventions. It is clearly stated that the Base Code is a minimum standard requirement and that national laws should be adhered to in conjunction with the Code. In circumstances where the national laws and Base Code vary, it is advised that the standard offering greater labour protection should be endorsed. As of February 2004, 55 member companies had agreed to adopt the ETI Base Code.

<http://www.ethicaltrade.org/Z/lib/base/index.shtml>

### **Fair Labor Association Workplace Code of Conduct**

The Fair Labor Association (FLA) grew out of the White House Apparel Industry Partnership initiative that was formed in 1996 in the United States. The FLA represents a coalition of companies, colleges, universities and NGOs. Drawing on the core ILO Conventions, its Workplace Code of Conduct sets out minimum standards related to working conditions and labour rights, particularly in the apparel and footwear industries. The FLA Charter also specifies criteria and principles for participation, affiliation and monitoring. Participating companies have to adopt the Workplace Code of Conduct, ensure that it is implemented by their suppliers and/or contractors, commit to internal and external monitoring, and take remedial action when required. It is also necessary to present the Code in the local language of the workers. By mid-2004, fourteen large corporations and 1,100 licensees producing logo-ed goods for US colleges and universities had joined the FLA, and 191 colleges and universities had affiliated with the scheme (Web site accessed on 28 July 2004).

<http://www.fairlabor.org/all/code/index.html>

### **Fédération Internationale de Football Association (FIFA) Code of Labour Practice**

In September 1996 the Fédération Internationale de Football Association (FIFA) together with three trade union organizations, the International Confederation of Free Trade Unions, the International Federation of Commercial, Clerical, Professional and Technical Employees, and the International Textile, Garment and Leather Workers Federation established a Code of Labour Practice for all sports products carrying the FIFA logo. The code that draws significantly from the core ILO conventions, namely, conventions 29, 87, 98, 100, 105, 111 and 138, also applies to contractors and subcontractors. An independent monitoring system was established to oversee the code's implementation. Additionally, sanctions and a withdrawal of the right to produce FIFA-licensed products have been introduced as a penalty if a factory is caught violating the code. However as some NGOs have noted, many factories producing FIFA products are still using child labour. In 1998, amendments were made that requested proof of code compliance should be given as evidence and also, that factories need to abide by the World Federation of the Sporting Goods Industry Model Code of Conduct.

<http://www.itcilo.it/english/actrav/telearn/global/ilo/guide/fifa.htm#>

### **Forest Stewardship Council Certification (FSC)**

The Forest Stewardship Council (FSC) is an international non-profit organization established in 1993 as an independent labelling scheme for forest products. The international headquarters are based in Bonn, Germany, with national offices in over 40 countries. FSC is a multistakeholder initiative composed of industry representatives, conservation and community groups, indigenous peoples, forestry professionals and forest certification organizations from around the world. The Forest Stewardship Council developed a certified standard logo, the FSC logo®. This logo is a guarantee that all timber and wood products have originated from sustainable forests. By mid-2004, 3146 Chain of Custody Certificates and 632 Forest Management Certificates had been issued, and there were 108 million acres of FSC certified forests worldwide (Web site accessed on 7 June 2004).

[http://www.fsc.org/fsc/about/about\\_fsc/certification](http://www.fsc.org/fsc/about/about_fsc/certification)

### **Global Alliance for Workers and Communities**

The Global Alliance for Workers and Communities (Global Alliance) was established in 1999 as a multistakeholder initiative. The aim of the Global Alliance is to improve the working lives and life experiences of apparel and footwear workers who work in global supply chains. The initiative takes a two-pronged approach. Firstly, it advances education and empowerment by providing a platform for workers to voice their opinions. Secondly, the Global Alliance establishes training and development programmes to foster management awareness among workers. In order to ascertain their clients' needs, the Global Alliance carries out in-depth assessments of workplace conditions, workers' aspirations and community needs. The initiative is based on a partnership between the World Bank, Nike and Gap Inc., the International Youth Federation and several North American universities. According to their Annual Report published in June 2002, The Global Alliance has helped over 60,000 workers from Thailand, Viet Nam, Indonesia, India and China through training on personal financial management and providing educational activities (Web site accessed on 7 June 2004).

<http://www.theglobalalliance.org/>

## **Global Environmental Manufacturing Initiative**

The Global Environmental Manufacturing Initiative (GEMI) is a non-profit organization made up of TNCs that aim to encourage high environmental and health and safety standards. This is achieved by the sharing of information, best practices, tools and networking. Since 1997, GEMI has produced 11 benchmarking reports highlighting progress on a variety of environmental and health and safety issues. In January 2004, GEMI was comprised of 39 leading companies from various industries.

<http://www.gemi.org/docs/about/about.htm>

## **Global Framework Agreements**

The Global Framework Agreements are agreements negotiated by a trade union organization, usually an International Trade Secretariat with a TNC. These agreements are specifically concerned with labour issues. They encourage complicity with minimum labour standards and rights associated with freedom of association and collective bargaining. Special reference is made to the core ILO labour conventions. By late 2002, there were a total of 20 Framework Agreements involving 20 corporations.

**Tørres and Gunnes 2003; Utting 2002**

## **Global Sullivan Principles**

The Sullivan Principles were designed in 1977 to encourage South African companies to uphold equal opportunities and human rights during the apartheid era. This became the base for the Global Sullivan Principles, which were established in 1999 as a code of conduct aimed at all global organizations. This initiative works in collaboration with businesses helping them to define their socially responsible agenda, by drawing on their existing codes of conduct. As of October 2002, over 290 manufacturers, service businesses, non-profit organizations, professional service firms, higher education associations, religious and spiritual organizations and national government bodies had endorsed the Principles.

<http://www.globalsullivanprinciples.org/principles.htm>

## **ICFTU/ITS Basic Code of Labour Practice**

The International Confederation of Free Trade Unions and the International Trade Secretariats drafted the Basic Code of Labour Practice in order to provide labour standard guidelines for companies. The Code is based on the ILO's seven core conventions. For example, it calls for the inclusion of a living wage, decent working conditions, freedom of association and right to collective bargaining, and the abolition of child labour. The Code is generic and not directed at a specific industry. Importantly, in the preamble it stipulates that business associates (contractors, sub-contractors, suppliers, licensees) are all subject to the same regulations and should endorse the Code. It also states that the Code is a minimum standard requirement and should not be used as a maximum standard.

<http://www.itcilo.it/actrav/actrav-english/telearn/global/ilo/guide/icftuco.htm>

### **IFBWW's Model Framework Agreement**

In 2000 the International Federation of Building and Wood Workers (IFBWW) developed the Model Framework Agreement. This agreement provides guidelines on how to promote and protect workers rights in the construction, building, forestry and other allied trades. The agreement is intended to enlist the commitment of a TNC, aiming to ensure that the company adheres to a minimum set of standards. The main prerequisites are respect of full trade union rights and the following ILO core conventions: C29, C87, C98, C100, C105, C111, C138 and C182. As of October 2002, the IFBWW had negotiated framework agreements with five TNCs.

<http://www.ifbww.org/index.cfm?n=191&l=2&on=189>

### **International Cyanide Management Code**

In 2000 the United Nations Environment Programme in collaboration with the International Council on Metals and the Environment established the International Cyanide Management Code for the Manufacture, Transport and Use of Cyanide in the Production of Gold (Cyanide Management Code). Representatives from the gold industry were also included in the drafting of the Code. Based on nine principles, this voluntary code of conduct is concerned with the management of cyanide. Importantly, verification of compliance with the Code is undertaken by an independent third-party audit of the mine. This is measured against the Code's Principles and Standards of Practice.

<http://www.cyanidecode.org/thecode/index.html>

### **ISO 14000 Series**

Since 1996, the International Organization for Standardization (ISO) has established several standards under the ISO 14000 series, which aim to support environmental management. Within this group, ISO 14001 is now recognized as an international benchmark for assessing the quality of environmental management systems. ISO 14001 certification provides an assurance that a system is in place to identify and manage environmental performance. It does not, however, measure environmental impacts or whether these have improved. A variety of requirements need to be met in order to obtain ISO 14001 certification, largely in the form of policy documents, audits, written procedures and management reviews. By December 2002, 49,462 companies and other entities in 118 countries had obtained ISO 14001 certification.

<http://www.iso.ch/iso/en/iso9000-14000/iso14000/iso14000index.html>

### **London Principles for Sustainable Finance**

The London Principles for Sustainable Finance were launched at the World Summit on Sustainable Development that was held in Johannesburg, South Africa in August 2002. Against the backdrop of the accounting scandals in the USA and the UK, and the proliferation of socially responsible investment indicators, the London Principles were established in order to promote accountable sustainable development among firms in the UK's financial sector. By encouraging financial institutions to adopt seven core principles based on economic prosperity, environmental protection and social development, the Principles aimed to promote best practice in the UK financial sector. Although these Principles directly affect UK financial companies, they have international resonance owing to the financial industry's large commercial sphere of influence.

<http://www.forumforthefuture.org.uk/publications/default.asp?pubid=20>

### **MSC Principles and Criteria for Sustainable Fishing**

The Marine Stewardship Council (MSC) is a non-governmental body that was established in 1997. It has developed a certification system that aims to assess and promote the sustainability of marine fisheries. As a result, consumers can buy seafood products that have been assessed against the MSC standard, namely the MSC Principles and Criteria for Sustainable Fishing. These principles have been based on the Code of Conduct for Responsible Fisheries that was developed by the FAO and adopted in 1995. Originally a joint venture created by Unilever and the World Wide Fund for Nature, the MSC began to operate as an independent organization in 1999. By February 2004, seven fisheries had obtained MSC certification and seven were in the process of being certified.

[http://www.msc.org/html/content\\_504.htm](http://www.msc.org/html/content_504.htm)

### **Oxfam Community Aid Abroad Mining Ombudsman**

In February 2000 Oxfam Community Aid Abroad mining campaign established a Mining Ombudsman to hear complaints from workers and local communities in developing countries affected by the operations of Australian-based mining companies. This initiative is also intended to demonstrate the need for and feasibility of establishing an official mechanism in Australia. Without previous examples to draw upon, Oxfam Community Aid Abroad has relied on numerous United Nations human rights laws that focus on socio-economic, cultural, civil, political and indigenous people's rights.

<http://www.caa.org.au/campaigns/mining/ombudsman/objectives.html>

### **Rainforest Alliance Certification Scheme**

In 1991 the ECO-O.K. certification programme was established by the Rainforest Alliance in response to consumer concern regarding the bad working conditions of the banana plantation workers. Later renamed as the Rainforest Alliance certification scheme, the Rainforest Alliance seal® was invented as a marketing label to inform consumers that a certain socio-environmental standard had been met during banana production. To coincide with this new initiative, the Rainforest Alliance, the Sustainable Agriculture Network and other conservation organizations introduced the Better Banana Project in 1991. This is another eco-labelling programme that guarantees that a certain level of social and environmental standards has been reached. To date, both initiatives have received wide support and are supported by over 17,000 members and supporters.

<http://www.rainforest-alliance.org/certification/index.html>

### **RUGMARK**

RUGMARK is an international initiative, established in 1995, that works with suppliers and producers to eradicate child labour. Part of their mission is to offer educational opportunities to all the children who are removed from the carpet industry, predominantly in India, Pakistan and Nepal. RUGMARK aims to achieve success through a variety of complimentary ingredients, issuing a consumer label, providing independent monitoring and introducing a rehabilitation system. To obtain the RUGMARK label, suppliers have to provide verification that they have met RUGMARK's certification criteria. Certification requires carpet manufacturers to sign a legally binding contract confirming that all looms are registered with the

RUGMARK Foundation and that they do not employ children under 14. They must also commit to being subject to unannounced inspections. Over 3.2 million carpets carrying the RUGMARK label have been sold in Europe and North America between 1995 and December 2003 (Web site accessed on 7 June 2004).

<http://www.rugmarkindia.org/assurance/label.htm>

### **SA8000**

Social Accountability 8000 (SA8000) is a cross-industry standard and independent verification system that certifies good workplace conditions and observance of labour rights. The Council on Economic Priorities and Accreditation Agency (CEPAA), now known as Social Accountability International (SAI), established SA8000 in 1997. SA8000 enlists the expertise of NGOs, trade unions, workers and employers and also strives to be regionally and culturally sensitive. By October 2003, 310 factories and facilities had obtained SA8000 certification, representing 36 industries and 38 countries.

<http://www.cepaa.org/SA8000/SA8000.htm>

### **Sustainability Reporting Guidelines**

The Global Reporting Initiative (GRI) was established in 1997 as a joint venture between the USA-based Coalition for Environmentally Responsible Economies (CERES) and the United Nations Environment Programme and became an independent organization in 2002. The initiative engages in dialogue with companies, NGOs and other stakeholders to improve the quality of “triple bottom line” reporting related to financial environmental and social aspects. The GRI’s Sustainability Reporting Guidelines provide a structure for reporting. By February 2004 there were 392 organizations in 33 countries that were classified as GRI reporters. Of that number, 18 companies had published social and environmental reports “in accordance” with the Sustainability Reporting Guidelines.

<http://www.globalreporting.org/guidelines/2002.asp>

### **Tour Operators’ Initiative for Sustainable Tourism Development, 2001**

Established in 2001 the Tour Operators’ Initiative for Sustainable Tourism Development is a voluntary initiative supported by the United Nations Environment Programme, United Nations Educational, Scientific and Cultural Organization and the World Tourism Organization. It brings together a global network of tour operators and civil society members who are committed to promoting sustainable tourism. Its aim is to develop new ideas and projects that will help in addressing the social, cultural, environmental and economic problems that are endemic in the tourism industry. By focusing on three main issues—namely, social sustainability (respecting the integrity of the local cultures), prevention of the negative effects on social structures and lastly, conservation of the cultural heritage—the initiative hopes to encourage tour companies to commit to sustainable development obligations.

[http://www.toinitiative.org/about/statement\\_of\\_commitment.htm](http://www.toinitiative.org/about/statement_of_commitment.htm)

### **Worker Rights Consortium Model Code of Conduct**

The Worker Rights Consortium (WRC) is a joint initiative of the United States Students Against Sweatshops, college and university faculty, and labour experts. WRC’s main objective is to assist in the enforcement of manufacturing codes of conduct adopted by colleges and universities in the United States, which aim to

ensure that factories producing clothing and other goods bearing their names respect basic rights of workers. The WRC Model Code of Conduct provides guidance and is used as the basis for WRC investigations of complaints against companies. Raising public awareness about factory abuses and educating workers about their rights is also part of the WRC mission statement. By February 2004, over 100 US colleges and universities had affiliated to the WRC.

**<http://www.workersrights.org/coc.asp>**

## National Legislation

The national laws of a TNC's home government are important regulatory instruments. With corporate social responsibility issues now attracting wide attention, more governments are realizing that they have a responsibility to ensure that their companies adhere to decent standards both at home and abroad. Consequently, since the turn of the millennium, new laws and resolutions have been instituted to meet this need. For example, Australia, Belgium, Britain, France, Germany and Sweden have adopted regulations for pension plans and other financial institutions which stipulate that companies must disclose information about socially responsible investment practices and proxy voting. In recent years there have also been a number of legal actions by Southern stakeholders against Northern companies, whereby plaintiffs have sought to utilize national law from the TNC domiciled country. For example, since the late 1990s, injured workers from the South have used the laws of the United States and the United Kingdom against large American and British TNCs. National laws that contain cross border implications for TNCs are, potentially, an important supplement to international regulation, especially in a climate where international regulation is underutilized. The following section identifies some of the main national laws that have cross border implications and are relevant for regulating the activities of TNCs.

### Australia

As of 2001, the Australian government requires all listed companies on the Australian stock exchange and other investment firms to complete an annual CSR report. A Code of Conduct Bill was also introduced in Parliament in 2000 (see section on Proposals).

<http://www.aph.gov.au/hansard/senate/dailys/ds170800.pdf>

### Belgium

From 1996, in addition to Belgian TNCs, Belgian subsidiaries of foreign corporations are obliged to include in their annual accounts a *Bilan social*. This French concept is a statistical report on a company's social performance over a three-year period.

[http://www.bnb.be/BA/F/P1\\_25.htm](http://www.bnb.be/BA/F/P1_25.htm)

### Denmark

Since 1999 the Danish Ministry of Social Affairs in collaboration with the consultancy firm KPMG and the *Socialforskningsinstituttet* devised The Social Index, which is a self-evaluating tool for both public and private companies of all sizes to measure their social responsibility. Four years earlier, the Danish Parliament passed the Green Accounts Act that requires Danish companies to report on their levels of pollution and environmental activities. Under the Act, 1,200 Danish companies were mandated to complete green accounting procedures, owing to their previously poor environmental performer status.

[http://europa.eu.int/comm/dgs/employment\\_social/lisbonconf2000/berrit.pdf](http://europa.eu.int/comm/dgs/employment_social/lisbonconf2000/berrit.pdf)



## France

As of 2001 nationally listed French companies are legally required to produce a corporate sustainability report under the *Nouvelles régulations économiques* (Loi n° 2001-420). A year later, Article L225-102-1 of the French Code of Commerce, mandated companies listed on France's *premier marché* at home and abroad to produce information on their social and environmental impact. In addition, it is expected that French TNCs that have foreign affiliates should report on how they will ensure that subcontractors and subsidiaries will respect and adhere to the ILO's core conventions.

<http://www.senat.fr/dossierleg/pjl99-321.html>

## The Netherlands

Like Denmark, the government of the Netherlands has also endorsed “triple bottom line” reporting. The top 250 Dutch companies are legally obliged to report on environmental activities. Since 2003, the Dutch Advisory Board for Annual Reporting has launched a guideline for Dutch companies to follow when completing their CSR report.

[http://www.uneptie.org/outreach/reporting/docs/GRI\\_govtmeeting.pdf](http://www.uneptie.org/outreach/reporting/docs/GRI_govtmeeting.pdf)

## United Kingdom

Although the final outcome has yet to be decided, recent ongoing attempts by Southern stakeholders to use a facet of UK Company Law to their advantage has highlighted the possibility of using national law. Since the late 1990s legal proceedings have been initiated against several British mining companies based on claims of negligence and failure to respect basic labour rights and provide decent working conditions. Currently, lawsuits against three British mining companies are going through the British legal system.

For more information on the legal cases using UK Company law, see

<http://www.riia.org/pdf/research/sdp/FDL%20A%20New%20Weapon%20Ward%202000.pdf>

## United States of America

The Alien Tort Claims Act (ATCA) of 1789 allows foreign nationals to bring a case to a domestic court for a civil wrong committed abroad in violation of “the law of nations or a Treaty of the United States.” In the 1980s, ACTA was resurrected, primarily to bring cases against individuals accused of human rights violations. Several cases have since been brought against American and other TNCs for complicity in human rights abuses. While over twenty cases are currently being heard in US courts, the applicability of ACTA to TNCs is highly contentious and subject to ongoing debate.

For more information on the legal cases using the Alien Tort Claims Act, see

<http://www.earthrights.org/litigation/index.shtml>

## **Proposals**

In the last decade various actors from different arenas have called for greater corporate accountability and proposed changes in the international regulatory system regarding the working activities of TNCs. The proposals vary considerably in scope and depth. They include the establishment of new monitoring and oversight institutions, and the strengthening of complaints procedures. On the legal side, there are increasing requests from civil society actors for strong laws governing the operations of TNCs. These vary from calls of an international legally-binding UN convention to proposals for regional legislation that would monitor TNCs originating from a regional bloc. This section identifies some of the main proposals that have emerged in recent years.

### **Core Standards Commission**

The World Development Movement with support from other NGOs is calling for a new regulatory system that will incorporate international law without overriding national law. It has proposed that a commission be established that would focus on enforcing a selection of fundamental human rights. The proposed Core Standards Commission would incorporate representatives from business, government, civil society, trade unions and the law. Within its remit the Core Standards Commission would hear complaints, investigate problems, and on certain occasions, try the complaint on behalf of the victim.

<http://www.wdm.org.uk/parlsubs/icdwto.htm>

### **Corporate Code of Conduct Bill (Australia)**

In 2000 the Corporate Code of Conduct Bill was introduced in the Australian Parliament. Aimed at both Australian companies and TNCs with Australian subsidiaries, the Bill sets standards for companies to adhere to when operating domestically and in offshore operations. Among the issues considered is observance of health and safety standards; environmental, labour and tax laws; and consumer protection guidelines. To date, the Bill has not been enacted.

<http://www.aph.gov.au/hansard/senate/dailys/ds170800.pdf>

### **Corporate Social Responsibility Bill (UK)**

The New Economics Foundation, Amnesty International-UK, CAFOD, Save the Children-UK and the Friends of the Earth-UK make up the Corporate Responsibility Coalition (CORE Coalition), which is supporting a Corporate Social Responsibility Bill in the UK. The proposed bill addresses four main objectives, specifically, company reporting, stakeholder consultation, the director's management responsibilities and independent reviews. Linda Perham, MP, is sponsoring the bill.

<http://www.foe.co.uk/campaigns/corporates/core/about/bill.html>

### **Earth Council Human Rights/Environmental Ombudsperson**

The Earth Council has proposed the creation of a Human Rights/Environmental Ombudsperson that would work under the mandate of The Earth Charter. The Earth Charter was officially launched in 1994 as a response to the United Nations World Commission on the Environment and Development (1987) request for a charter that

would focus on sustainable development issues. The proposed Ombudsperson would concentrate on three main issues: impacts of unsustainable practices on public health and the environment; the interface between ecological and human security as it affects local and national development, particularly in the most vulnerable and marginalized communities; and the demands of equity and justice regarding resource use and allocation.

[http://www.omced.org/om\\_nautilus.htm](http://www.omced.org/om_nautilus.htm)

### **European Union Code of Conduct for European Enterprises**

In January 1999 the European Parliament adopted a resolution calling on the European Union to establish a code of conduct for European enterprises operating in developing countries. This would entail voluntary and regulatory initiatives that will help monitor the actions of TNCs in developing countries. The following list highlights some of the proposals being put forth:

- The establishment of an independent European monitoring and verification body. This will operate in collaboration with the European Parliament's public hearings concerning good and bad TNC conduct.
- The introduction of a new legal base for a statutory European framework governing companies' operations abroad.
- The adoption of voluntary codes of conduct by European companies that will also include independent monitoring and verification.
- The creation of a mechanism that will cut off European funding to any company with a European contract that abuses fundamental human rights when operating abroad.

The proposals for a regional code of conduct come together with calls for more reliance to be placed on existing international human rights laws that relate to TNCs. Additionally, there are also requests for the European Commission to develop a European Monitoring Platform that would record the activities of TNCs in relation to their social and environmental obligations. This would draw on the expertise of NGOs, local communities and indigenous people from the South. Although there is no dispute concerning the need for social and environmental reporting undertaken by European companies, there is still no consensus on whether this should be a voluntary or mandatory exercise.

<http://www.citinv.it/associazioni/CNMS/archivio/convenzioni/parlamentoEU.html>

### **Global Regulation Authority**

Christian Aid, a British NGO has proposed that a Global Regulation Authority should be created and located within the United Nations system. This Global Regulation Authority would focus on the activities of TNCs and enforce a code of conduct of human rights and environmental standards. This proposal was made in the run up to the World Trade Organization's meeting at Doha, Qatar in 2001. Supplementing this proposal the International Forum on Globalization is also one of the several NGOs or networks calling for the creation of an organization that will address corporate accountability, under the mandate and direction of the United Nations. The proposed organization would specialize in providing public information on corporate practices.

<http://www.christian-aid.org.uk/news/media/pressrel/011031p.htm>

### **International Code of Conduct for Cut Flowers**

In 1998 several European NGOs drafted a proposal for an International Code of Conduct for Cut Flowers. This proposal identifies a minimum set of human rights, labour and environmental standards for the international cut-flower industry to uphold. The proposal is aimed at companies, their affiliates and sub-contractors. The Code of Conduct is based on the ILO's seven core conventions and provides instruction on implementation and verification procedures.

<http://www.ifoam.org/social/annex56.html>

### **International Corporate Accountability Convention**

In 2002 Friends of the Earth (FOE) launched a three-pronged campaign to address the issue of corporate accountability. Within this campaign, FOE and other NGOs are calling for the establishment of an international corporate accountability convention that would have legally binding rules. During 2002 this campaign attained international backing by several prominent NGOs. However, its official political backing is negligible, although a few Members of the European Parliament have endorsed this campaign.

[http://www.foe.co.uk/resource/briefings/corp\\_alert\\_intro\\_lgs.pdf](http://www.foe.co.uk/resource/briefings/corp_alert_intro_lgs.pdf)

### **International Criminal Court**

Several NGOs and academics have recently considered the possibility of extending the remit of the International Criminal Court to try Chief Executive Officers of TNCs for crimes against humanity. To date, the ICC only tries government officials who have committed such crimes.

<http://www.attac.org/fra/toil/doc/cetim7en.htm>

### **ISO Social Responsibility Standard**

In June 2004 the International Organization for Standardization (ISO) decided to develop an international social responsibility standard, specifically aimed at non-specialists. This guide, however, will not take the form of certification. In September 2004 the ISO Technical Management Board will consider the terms of reference and operating process.

<http://www.iso.org/iso/en/commcentre/pressreleases/2004/Ref924.html>

### **McKinney Bill, 2000**

In 2000 Congresswomen Cynthia McKinney introduced the Corporate Code of Conduct Bill in the US House of Representatives. This Bill proposes that all US companies employing more than 20 persons in a foreign country must implement the Code. The standards presented in the Code are drawn from international United Nations human rights, labour and environmental standards. The proposal requires that compliance must be annually monitored and tabulated, at the cost of the company. It is proposed that failure to implement the Bill could result in a company being liable for compensation. The Bill was initiated during the Clinton administration. It presently remains dormant in the House of Representatives.

<http://www.brass.cf.ac.uk/Civil%20Rights%20Bibliography/homestate.html>

## **Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights**

The 55<sup>th</sup> Session of the United Nations Sub-Commission on the Promotion and Protection of Human Rights, held in August 2003, approved a comprehensive set of norms governing the human rights responsibilities of TNCs and related enterprises, which had been drafted by a working group of experts. In addition to establishing norms, the proposal contained certain provisions related to monitoring and implementation. For the Norms to acquire political and legal weight, however, they must be approved by the Commission on Human Rights, composed of selected member states. In April 2004, the Commission stated that the Norms have no legal standing, authorized the Sub-Commission not to perform any monitoring functions, and requested the Office of the High Commissioner for Human Rights to conduct further study and consultations on the matter, which would be reconsidered when the Commission meets in 2005.

<http://www1.umn.edu/humanrts/links/norms-Aug2003.html>

## **Ombudsman for Norwegian Companies Abroad**

The proposed Norwegian Ombudsman would be responsible for ensuring that all Norwegian enterprises adhere to the human rights and environmental guidelines put forward by the Norwegian government. In the proposal it is stated that if the guidelines are violated, the Ombudsman has the power to ask the Overseas Development Agency and Export Credit agencies to sever their financing of either a specific project or another project coordinated by the company in question. The Ombudsman would also be requested to notify Norwegian embassies and government agencies and ask them to stop supporting the company in question.

<http://www.corporateeurope.org/observer7/norway.html>

## **Re-chartering Corporations**

Some activists and scholars, particularly in the United States, are calling for the re-chartering of corporations. Historically, companies were given the right to operate through state charters, which contained clauses that restricted a company's geographical movement and attempted to ensure that communities benefited from its presence. Charters were periodically reviewed and, if necessary, revoked. Proposals for re-chartering aim to reassert community and government roles in regulating corporations and reviewing their license to operate.

[http://www.ifg.org/alt\\_eng.pdf](http://www.ifg.org/alt_eng.pdf)

## **UN Special Rapporteur on TNCs**

In the context of the discussions and debates surrounding the work of the UN Sub-Commission in developing a set of norms for TNCs, there have emerged some calls for the establishment of a U.N. Special Rapporteur on TNCs. The work of some existing U.N. Special Rapporteurs (for example, those dealing with Sudan and the Right to Food) has already addressed the activities of TNCs.

[http://www.amnesty.ca/resource\\_centre/reports/view.php?load=arcview&article=1377&c=Resource+Centre+Reports](http://www.amnesty.ca/resource_centre/reports/view.php?load=arcview&article=1377&c=Resource+Centre+Reports)

**WTO Social Clause**

The establishment of the World Trade Organization in 1995 revived calls for a “social clause” that would link trade and labour standards. With the backing of some trade union organizations and Northern governments, momentum behind such a proposal built up during the latter half of the 1990s but subsequently declined in the face of considerable opposition from some developing country governments and NGOs.

**Broad, 2002**

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