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Are Multinational Corporations Compatible With Sustainable Development?

The Experience of Developing Countries

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Abstract

This paper explores the question of whether multinational corporations are a force for environmental sustainability in developing countries. The paper argues that although MNCs have the potential to contribute to sustainable development, their actual environmental impact largely depends upon the degree to which their activities are regulated by host developing countries. The huge environmental control costs, coupled with the profit motive nature of MNCs, suggests that industry self- regulation is unlikely to be effective where it conflicts with the primary objectives of multinationals. Thus, only effective regulatory mechanisms hold the promise of turning MNCs into a more positive force for environmental sustainability.

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1. Introduction

Over the past few decades, the role of multinational corporations (MNCs) in sustainable development has probably been one of the most controversial debates among scholars. The environment has been at the centre of the controversy. Are MNCs a force for good in the promotion of environmental sustainability in developing countries? Briefly, the right answer is that MNCs are perceived both as the source of, and the solution to, the problems of environmental degradation.

On the one hand, dependency theorists and environmentalists are generally pessimistic about the contributions of MNCs to the protection of the natural environment, particularly in host developing countries. For these schools of thought, the profit-maximising nature of multinational enterprises as well as their extensive marketing networks suggests that MNCs would try to move their unwanted products from one country to another until a market is found for such products (ESCAP/UNCTC, 1988:12). Due to their urgent need for employment opportunities, low-income countries are often compelled to set lax environmental standards in order to attract foreign investors. This problem, coupled with the high costs of conforming to the more stringent environmental standards in the advanced world, means that developing countries are likely to remain the "havens" of the pollution-intensive industries of the multinational firms of the developed world.

This argument does not only sound good in theory. Instead, a number of empirical studies have supported the relocation of "dirty industries" to developing countries. For example, during the 1970s, there was a trend to locate new capacities of the Japanese aluminium industry abroad due to environmental considerations (Walter, 1975).

Similarly, UNEP (1981) provides evidence of relocation of some hazardous industries from the US to Mexico owing to environmental factors. Summing up these trends, Korten (1995:31) concludes that “[e]conomic globalisation has greatly expanded opportunities for the rich to pass their environmental burdens to the poor by exporting both wastes and pollution factories”.

In sharp contrast to the above assessment, neo-liberal economists contend that MNCs are perhaps the most significant catalysts for sustainable development, because multinational corporations typically possess newer and cleaner technology and have better management practices which can be transferred to their subsidiaries in the developing world. Thus, rather than “pollution havens”, MNCs create “pollution halos” in developing countries through the export of modern technologies. In support of the pollution halo hypothesis, Eskeland and Harrison (1997) found that foreign ownership was associated with cleaner and lower levels of energy use in Mexico, Venezuela and Cote d’Ivoire. Similarly, Blackman and Wu (1998) found significant support for the conclusion that foreign investment in electricity generation in China increased energy efficiency and reduced hazardous emissions.

The above fundamentally divergent positions clearly demonstrate the need for further investigation about the real impact of MNCs on the environment of the developing world. This is particularly so because these seemingly logical, yet contradictory positions put the policy-maker in a dilemma. How should policy makers reconcile these positions to make appropriate policies towards MNCs? Should multinational enterprises be viewed as inherently detrimental to the advancement of

sustainable development? How can the contributions of MNCs to sustainable development be enhanced?

Spicer (2002), executive vice president of corporate affairs at Anglo American, suggests that the most effective and efficient way of enhancing MNC contribution to sustainable development is through voluntary approaches rather regulation, because 'you can't regulate virtue'. This paper however takes a contrary view by arguing that the fact that 'the self- interest of a corporation and the need to enhance shareholder value takes precedence over concern for the community as a whole' (Shaughnessy, 2000: 163-64)[1] means that industry self-regulation is likely to be effective only when it coincides with the profit motives of multinationals. It is apparent that potential polluters cannot make laws and sanction themselves when they go against those laws. Thus, to the extent that the *raison d'etre* of every business entity is to maximise profit, MNCs need to be regulated if we are to turn them into a more positive force for good in the promotion of sustainable development.

As to what constitutes the appropriate forum of regulating MNCs, the paper suggests that host developing countries can, and must remain primarily responsible for regulating foreign corporate activity because they are the most affected by environmentally-harmful corporate practices. While the above line of argument is not necessarily new[2], a major departure of this paper from extant literature is its emphasis on the juxtaposition of voluntary approaches and regulatory mechanisms in an either-or mode, as if there were substitutes, as misleading. Indeed, neither voluntary initiatives nor

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[1] Quoted in Shinsato, 2005:5

[2] For example, in a review of the literature on the MNC-sustainable development debate, Zarsky (1999) concludes that the evidence is mixed, and that the most significant determinant of firm environmental performance is community pressure.

regulatory measures alone are sufficient if the goal is improvement in industry environmental performance. Thus, while suggesting that effective state regulation is the primary motivator for firms to improve their environmental practices, the paper refutes Monbiot's (2002) position that '[v]oluntary agreements…simply do not work'. However, the fact still remains that voluntary ethical codes of conduct and international cooperation should only supplement, not substitute the regulatory role of the state.

The paper is structured as follows: Sections 2 and 3 define and provide some stylized facts about multinational corporations and sustainable development respectively. Section 4 appraises the role of MNCs on sustainable development with particular reference to host developing countries. Section 5 focuses on the environmental records of Royal Dutch Shell in Nigeria's Niger Delta because of the international notoriety it has received over the past two decades. Section 6 outlines the weaknesses of business-led voluntary codes in promoting sustainable development, and therefore emphasises the need for effective regulatory mechanisms both domestically and internationally. Section 7 concludes the paper.

2. Multinational Corporations: Meaning and Some Stylized Facts

Although the modern MNC has its roots in the East and West Indies traders of the mercantilist era (UNCTAD, 2002:2)[3], the term *multinational corporation* first appeared in 1960. Distinguishing between portfolio and direct investment, Lilienthal (1960:119) first used the term to refer to 'such corporations…which have their home in one country

[3] This period extends from the sixteenth to the eighteenth centuries

but which operate and live under the laws of other countries as well'[4]. Two major features are associated with MNCs: first, their activities involve more than one nation; second they are responsible for most foreign direct investment (FDI). For Dunning (1996), therefore, any corporation that engages in FDI and owns or controls value-adding activities in more than one country is a multinational corporation[5].

The period 1970-2000 saw an enormous growth of activity by multinational enterprises. While only 7,000 MNCs existed in 1970 (Kolodner, 1994:2), there were as many as 63,000 parent firms with around 690,000 foreign affiliates by the year 2000 (UNCTAD, 2000:37). MNCs have been expanding not only numerically but also financially. In 1998, the annual revenues of the top 5 corporations more than doubled the gross domestic product (GDP) of the 100 poorest countries in the world (UNCTAD, 2002:3).

The sheer size and enormous economic power of MNCs s means they have the capacity to influence development policy. Due to the perceived benefits associated with them, political and economic decisions by elected governments are increasingly made to provide favourable environments for the investment and marketing needs of MNCs. Consequently, corporations are sometimes able to influence the domestic policy outcomes of host developing countries by threatening to move jobs overseas. This often raises questions about whether corporate power enables MNCs to effectively undermine

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[4] [4] Cited in Kobrin, 2001:1

[5] Other definitions are more specific and request that a certain share of revenues must be achieved in other countries than the home country, or that a share of investments must be allocated in a minimum number of foreign countries, or that subsidiaries it owns or controls must be of a specified size and number in order to call a corporation multinational (Woll, 1996, cited in Schaub, 2004:8).

sustainable development by circumventing domestic environmental standards. Moreover, the fear that firms will move jobs overseas and the calculation of the effect that this could have on the economy, can influence the degree to which developing countries will impose environmental regulations on multinational enterprises (Porter, 1999)[6].

The extraordinary growth of MNCs also enables them to influence policy outcomes at the international level. At many international fora, corporate lobbies have pushed for policies that will benefit busines enterprises and let them get away with harming the environment. In the run-up to Rio, for example, corporate groups were active in defining the concept of sustainable development and pressing for their interpretation of corporations as promoters of sustainable development to be represented in the official documentation coming out of the conference (Chaterjee and Finger, 1994). The interests of the various giant corporations in the the auto, mining, oil and chemical industries also influenced the Kyoto Global Climate Change Conference outcome (Shah, 2002)[7]. By influencing the terminology in a way that enables them to promote faith in industry self-regulation, MNCs have thus far succeeded in escaping calls for direct regulation of their activities. At Rio in particular, corporations ensured that the only references to them in Agenda 21 were in the context of corporations as partners in sustainable development or in the promotion of voluntary codes (Finger and Kilcoyne, 1997). In this way, no explicit obligations or regulations were placed on these actors in the follow up to Rio.

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[6] Cited in Clapp, 2006:ch. 18
[7] Cited online at: http://www.globalissues.org/TradeRelated/Corporations/Environment.asp?p=1

3. Sustainable Development

Until the 1980s, opinions about MNCs as development agents were largely influenced by the orthodox view among free market economists that MNCs are legally accountable only to their shareholders for the financial performance of the corporation. This view considered multinationals as purely profit-minded entities that did not have any legal obligation in incorporating society's interest into their activities. Friedman (1970:126) eloquently expressed this view thus: '[t]here is one and only one social responsibility of business – to use its resources and engage in activities designed to increase its profits…'

From the 1980s, however, a series of environmental catastrophes associated with the activities of MNCs[8] coupled with the recognition that humanity's survival is largely dependent on the continued functioning of the natural environment (Disseindorf, 2000), resulted in a considerable shift in thinking regarding the role of MNCs in society. Given that MNCs are the most important players involved in environmentally damaging activities (Third Wold Network [TWN], 1997), many scholars now question the traditional model of "business as usual"[9] and call upon business enterprises to place the long-term sustainability of the environment alongside their narrow commercial interests. This idea of balancing corporate interest with environmental protection has given rise to what has become known as sustainable development[10].

[3] The 1984 Bhopal disaster and the 1989 Exxon Valdez oil spill in the US are the most frequently cited examples.
[9] For example, see Elkington, 1998
[10] Broadly, however, the term goes beyond environmental protection to include social and economic development concerns as well.

From an international perspective, although issues concerning environmental sustainability were first raised by the 1972 Stockholm Declaration[11], the term was first used by the WECD [World Commission for Environment and Development] (1987:43) to refer to any form of development that 'meets the needs of the present without compromising the ability of future generations to meet their own needs'[12]. From the business perspective, and for the purpose of this paper, sustainable development means the adoption of 'business strategies and activities that meet the needs of the enterprise and its stakeholders today while protecting, sustaining and enhancing the human and natural resources that will be needed in the future' (Brkic and Douglas,1997:33).

4. The Role of Multinational Corporations in Sustainable Development: An Appraisal

Does increase multinational investment lead to environmental sustainability? Or is there a trade-off between multinational corporations and sustainable development? It is widely accepted that technological progress is an important factor in protecting the natural environment. Technological advancement may contribute to reducing environmental externalities in two major ways: first, high level of technology can help in the manufacture of products which are less environmentally damaging to use or dispose of (e.g. fuel-efficient vehicles); second, through sophisticated technology, pollutants may

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[11] For details check at: *http://www.unep.org/Documents/Default.asp?DocumentID=97&Article*

[12] Perhaps this definition is derived from the literal meaning of the word "sustainable" whose root emanates from a combination of the two Latin words, "sus" (up) and "tinere" (hold). Thus, to sustain something is to hold it up or prolong it. In its linguistic sense, therefore, sustainable development simply refers to the need to conserve natural resources in the interest of long-term productivity.

be emitted less intensively (UNCTAD, 1999:15). Warhust and Bridge (1997) also suggest that technological innovations such as energy-efficient "flash" smelters, biotechnology-based leaching alternatives to smelting are substantially reducing the overall use of resources and the damage to water, land, air and ecosystems

If it is accepted that increased technology can contribute to improved environmental management capacity, then it might as well be that MNCs are the key to achieving sustainable development, because they are the main transmission mechanisms of technology to developing countries. In 1995 alone, over 80% of global royalty payments and licence fees were by MNC subsidiaries to their parent companies (UNCTAD, 1997)[13]. Indeed, MNCs are not only the major technology innovators, but they also possess skills in the safe handling, transport, storage, use and disposal of toxic materials, and in the development of pollution abatement technologies (Morimoto, 2005).

Moreover, multinational enterprises can positively contribute to sustainable development through the transfer of environmental managerial skills that are not available to host developing countries. As DiConti (1992:107) writes: 'Through its empowerment of indigenous professionals and managers, multinational corporate subsidiary transfers knowledge and experiences that are less available locally'. In support of this argument, Eriksen and Jansen (1998) draw our attention to the international environmental activities in China, from Novo Nordisk, (a Danish pharmaceutical MNC) which developed a joint venture with the Suzhou Hongda Group in the production of starch-degrading enzymes for the alcohol industry. As a result, untreated water is no

[13] Cited in Kleinert, 2001:4

longer discharged, but processed through biological wastewater treatment plants which reduced the organic material by 90 per cent[14].

In sum, the technological advancements of MNCs, coupled with their high management skills, it is argued, places them at a greater advantage in enhancing the sustainability of the ecology. Thus, Schmidheiny (1992:9) concludes that "[g]iven the large technological and productive capacity of business, any progress toward sustainable development requires its active leadership". For developing countries in particular that do not have adequate resources for technological innovation, one can legitimately claim that the multinational corporation may not only be regarded as an important agent of sustainable development, but is also ‘the only real hope’ (Drucker, 1974:134).[15]

While there is little doubt that MNCs possess clean technologies than can enhance environmental sustainability, many scholars remain doubtful whether MNC technology is an unmitigated blessing to host developing countries. Because of their greater technological capacity, the use of production techniques or substances that are more ecologically damaging, and the larger volume of production that they characterise, MNCs usually have a negative effect on the environment when they newly produce in, or export to an area. With the increasing spread and market penetration and share of MNCs, the damaging environmental effects have increased. For example, these companies account for a large part of increased forest logging and deforestation in Indochina, the Pacific and South America (TWN, 1997).

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[14] Similarly Garcia-Johnson (2000) presents evidence of linkages between chemical MNCs operating in Mexico and Brazil that led to adoption of new environmental practices.
[15] Quoted in Biersteker (1978:2)

Moreover, it has been suggested that MNCs, in order reduce cost, apply inferior environmental technology, management practices and standards in their developing countries' subsidiaries. A large proportion of equipment transferred to developing countries, it is argued, is either too sophisticated for developing countries to be accustomed to, or too obsolete to reduce cost and increase efficiency. Moreover, MNCs supply technology and any other know-how to developing countries with very high prices[16]. From this perspective, multinational enterprises are said to perpetuate technological dependence other than aiding sustainable development.

However, the most significant aspect of the "inappropriateness" of MNC technology relates to their environmental and safety dimensions. Do MNCs export environmentally harmful technologies to their affiliates in poor countries? There are claims that due to the high environmental standards in developed countries, MNCs systematically shift their environmentally noxious operations to developing countries. For critics, industrial disasters such as the 1984 Bhopal catastrophe and the recent environmental practices of Shell in Nigeria's Ogoniland epitomize the environmental hazards underlying the operations of MNCs.

Worse still, current international agenda suggest that there is no real will to change harmful production methods. Already, 'the costs and uncertainties of creating and applying new technologies from scratch are generally quite high and have to be born by some entity, [either] business or government' (Venon, 1976: 43-44)[17]. However, given their insufficient financial resources, most developing countries lack the advanced

[16] As Gosh (2001, quoted in Mammadov, 2005:21) points out, "the MNCs not only ask for a high price for the transfer of technology but also want to keep control of it so that the competitors are not able to know the secrets".
[17] Quoted in Biersteker, 1978:37

and effective pollution control technologies required for environmental sustainability. Instead, investments in technology necessary for sustainable development can largely be obtained from foreign corporations. Unfortunately, however, the proposed Trade Related Aspect of Intellectual Property Rights agreement (TRIPS) at the WTO is likely to make the transfer of "clean" technologies much more expensive through excessive royalty fees. This will further increase the inability of developing countries to purchase "clean" technology, and ipso facto, further compel them to loosen their regulatory regimes in order to receive "dirty" technologies from the multinationals of the developed world. Indeed, evidence in many developing countries including China already suggests that indigenous enterprises accepted pollution-intensive equipments from developed countries because they were cheap (OECD, 1997).

Defenders of multinationals, however, maintain that the above claims often over stretch the environmental impacts of MNCs as though only foreign multinational companies engage in environmentally degrading activities. It is argued that multinational corporations are neither better nor worse than indigenous companies in their environmental practices. In a comprehensive study, UNCTAD (1988: 228) finds that while the number of industrial accidents appears to have risen over the last fifteen years, available evidence indicates that multinational corporations have been involved in less than half of them. 'Many accidents have occurred in purely national firms or in state-owned enterprises' (Ibid)[18].

Moreover, while it may be true that MNCs follow lower environmental standards in developing countries than in industrialized nations, there is respectable evidence that their environmental practices in developing countries are more responsible than local

[18] , Quoted in Dicken (1998: 250)

firms operating in such countries (UNCTC, 1992: 233-234). This line of thinking suggests that unless we recognize that large corporations in general are environmentally destructive, it would be somewhat unwarranted to conceive of MNCs as purely antithetical to sustainable development on the basis that their activities destroy the environment.

This argument can however be misleading from one critical dimension. To be sure, that local firms also sometimes engage in environmentally deteriorating activities does not provide any justification for MNCs to continuously shift their obsolete technologies to developing countries without adequate safety measures. This is particularly so because multinational firms possess greater technical, financial, and organizational resources needed to solve environmental problems, and must therefore bear an enhanced responsibility to promote environmentally sustainable practices than their local counterparts (UNCTC, ibid: 226; Shrivastava, 1995)[19]. In this context, using the activities of local firms in assessing MNC environmental practices can be misleading.

From the above theoretical discussion, it appears that if environment concerns were central in MNC decision makings, then corporations could be the best sustainers of the environment. However, the empirical evidence reviewed in the next section suggests that despite the capabilities of MNCs in implementing higher environmental

[19] The research and development capacity of multinationals also place them in a better position to enhance an effective environmental management than their local counterparts. Chang (1998) estimates that MNCs manage about 75% of the world trade in manufactured goods and are involved in 75% of all industrial research and development in the OECD countries.

standards, their contribution towards this course in host developing countries is quite abysmal.

5. Multinational Corporations and Environmental Degradation: The Case of Shell in Nigeria

While examples of environmental destructions by MNCs in developing countries abound[20], this section concentrates on the activities of Royal Dutch Shell in Nigeria's Niger Delta. Shell started its oil production in the Delta in 1958. Although Shell often claims that its operations are carried out according to the highest environmental standards (Human Rights Watch, 1999:56), a growing body of evidence suggests that Shell has largely contributed to the process of environmental deterioration in Nigeria. The UN Committee on Economic, Social and Cultural Rights (1998) 'note[d] with alarm the extent of the devastation that oil exploration has done to the environment and quality of life in areas such as Ogoniland where oil has been discovered and extracted without due regard to the health and well-being of the people and their environment…'

Shell's hazardous environmental practices in the Niger Delta include gas flaring[21], oil spills and deforestation. Gas flaring is a frequent occurrence in the Niger Delta. In the year 2000, 95% of extracted natural gas was flared in Ogoniland, a section of the Niger Delta, compared to a mere 0.4% flared in the entire US (Shinsato, 2005:7). The consequences of gas flares on the ecology, climate and local inhabitants are alarming. Gas flaring contributes to acid rain which poisons potable water, stunts crop

[20] For more examples of environmental damage caused by multinational corporations in developing countries, see Morimoto (2005).
[21] Gas flaring is the practice of burning natural gas, a by-product of oil extraction.

growth, and damages the ecosystem (Essential Action, 2000:sec 1).[22] Moreover, the extremely high levels of carbon dioxide and methane gases that are released into the atmosphere is a significant source of global warming. This perhaps explains why Nigeria's oil fields are responsible for more global warming effects than the combined oil fields of the rest of the world (Ake, 1996:34). Although Shell and the other oil MNCs are aware of all these environmental hazards of their operations, they still opt for flaring, not because of its effectiveness in yielding good results but because it is by far the cheapest alternative[23]. This further confirms the pollution haven thesis that the profit-driven motives of MNCs would make them compromise the environmental protection of developing countries to further their narrow commercial interest.

Closely related to the problem of gas flaring is the issue of oil spills which also contributes to environmental hazards of different kinds. The incidence of oil spills in the Niger Delta is exceptionally high; 40% of all of Shell's oil spills between 1982 and 1992 occurred in the Niger Delta despite the fact that Shell drilled for oil in twenty-eight different countries during the same period (Cayford, 1996:183).[24] One significant consequence of the numerous oil spills has been the lost of mangrove trees. Once a major source of soil stability, Nigeria's mangrove forests now find it difficult to survive the oil toxicity due to Shell's operations. The increasing oil leaks have largely destroyed the breathing roots of the mangroves, killing off parts of the forest (Essential Action, 2000:9) Given that the mangroves essentially provide the foundation upon which the Delta exists, its destruction further results in erosion as the roots no longer hold the delta

[22] Cited online at: http://www.essentialaction.org/shell/Final_Report.pdf

[23] Other options for managing natural gas include reinjection into the subsoil, storage for use as a source of energy by local communities, and transportation for use in other projects elsewhere. OIL FOR NTN

[24] , Cited in Shinsato (2005:8). Badejo and Nwilo (2004:1) also estimate that between1976 and 1996, 4,835 oil spills were recorded.

silt in place. From the economic perspective, this also represents a significant loss, because approximately two billion barrels of fossil fuel are extracted from the mangroves per day which account for 40% of Nigeria's GDP (Shah, 2001:21).

Oil pollution from gas flaring and oil spills further contribute to the contamination of water bodies. Even if the oil does not directly spill into water sources, rain washes the pollution into the water (Adams, 1994)[25]. Not surprisingly, a World Bank research found that hydrocarbon pollution in Ogoniland water was over sixty times US limits (cited in Shinsat**o, ibid**). Significantly what accounts for the differences in levels of pollution here cannot be dismissed as merely coincidental. Instead, it is, *inter alia*, the result of stringent environmental policies in regulating the activities of MNCs in the developed world. As Nwankwo and Irrechukwu (1981)[26] have written: 'U.S. environmental regulations completely prohibit the discharge of produced water or drilling muds from onshore facilities into surface-water bodies; produced water has to be reinjected for recovery or injected into disposal wells, while drilling muds are to be landfilled'.

Contrary to the US's experience, the high incident of environmental degradation in Nigeria is the direct result of the country's lack of coherent pollution control policy and enforcement mechanisms. At the 12th edition of the Archbuilt exhibition in Port Harcourt, it was observed that in Nigeria, 'there is no document referred to as the national policy on the environment' (The News Magazine, 2001). It was therefore suggested that Nigeria 'needs a comprehensive environmental policy with in-built mechanisms, to react to changes in the international community'.

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[25] Cited in Shinsato, 2005

[26] Quoted in Maglo, and Moesinger (1994: no page nos.). Available online at: http://www.american.edu/ted/ice/ogonioil.htm#r1

Effective environmental policies are particularly significant because, in their absence, good environmental practices by multinationals – which are a common practice in developed nations – are often not followed in many developing countries. For instance, not only did Shell conduct 17 different environmental surveys before the commissioning of its pipelines from Stanlow in Cheshire to Mossmoran in Scotland, but also, many other elaborate measures were taken to accommodate environmental concerns. On the contrary, '[t]he Ogoni have never seen, let alone been consulted over, an environmental impact assessment' (Maglio and Moesinger, 1994)[27]. Instead, Shell has developed a cheaper way of dealing with by-products from oil drilling in the Delta region in the form of indiscriminate dumping (Hutchful, 1985, cited in Maglio and Moesinger, ibid).

From the above analysis, it appears that the perceived benefits of MNCs notwithstanding, the experience of Nigeria is strikingly consistent with the view that Shell has caused much harm on the environment in the country. It is therefore necessary to adopt appropriate measures in order to enhance the benefits and reduce the costs associated with MNCs.

6. Multinational Corporations and Environmental Destruction: Are Voluntary Codes the Answer?

Why do the contributions of MNCs to environmental sustainability remain low, and how might developing countries ensure more environmentally responsible behaviour on the part of multinationals? To a large extent, the negative environmental impacts of MNCs stem from the lack of a coherent regulatory regime – both national and

[27] Quoted online [no page number] at: http://www.american.edu/TED/ogoni.htm See also Green Peace International, 1994. Available online at: http://archive.greenpeace.org/comms/ken/hell.html

international – to govern their activities. While the private sector is obliged under international law to promote environmental sustainability, no effective enforcement mechanism exists to ensure compliance. In the absence of such a comprehensive regulatory body, many corporations adopt voluntary initiatives often under the label of "corporate social responsibility" or "corporate citizenship". In a survey of 169 MNCs in North America, Europe, and Japan, the United Nations (1993:22) found that more than 43% had published policy statements on the environment that committed their companies to a significant degree of social responsibility in managing their environmental impacts by 1993.

Given such an increasing pledge of MNCs to adhere to good environmental management practices, business representatives often contend that corporate control and regulation is a costly irrelevance to developing countries. This paradigm suggests that environmental sustainability is a win-win scenario, for which reason private profit-seeking enterprises will voluntarily solve environmental problems even in the absence of regulatory measures. Thus, Elkington (1994:97) cautions that corporations that seek to make huge profits must operate at the highest level of environmental responsibility, because '[f]ailure to do so will increasingly pose the risk of their companies' real present (and potential future) value being challenged; their position as a responsible corporate citizen being undermined; and competitive advantage draining away as customers and consumers turn to others who are – or are *seen* to be more environmentally responsible'.

Contrary to this argument, however, many researchers have shown that corporate efforts are motivated primarily by regulatory measures rather than opportunities for

profit.[28] To be sure, the large investments needed in R&D in fields such as renewable energy are often viewed as too risky and actually threaten the market position of companies with substantial investments and assets in existing products and technologies. The limitations of win-win are acknowledged by Buchholz (1993:55) thus: '[p]ollution control equipment is expensive to buy and operate. . . . Proper disposal of toxic wastes in landfills can be very costly and time consuming. These efforts cut into profits, and in a competitive system, companies that go very far in this direction will simply price themselves out of the market'.

Given the large environmental control costs, it would be naively optimistic to expect that corporations will voluntarily transfer environmentally sound technologies to their affiliates in developing countries all the time. Not surprisingly, codes of conduct such as the OECD's guidelines for multinational enterprises remain weak and ineffective, because they are voluntary, non-binding agreements[29]. Moreover, corporate codes are often limited to a few companies. A recent report by UNEP (2002:1) found 'a growing gap between the efforts to reduce the impact of business and industry on nature and the worsening state of the planet' because 'only a small number of companies in each industry are actively integrating social and environmental factors into business decisions'. In particular, voluntary ethical codes are limited to those sectors where brand names play a decisive role, such as in garments, footwear, toys, sport goods, consumer goods and retailing businesses (Singh, 2005). Extractive industries such as oil and mining – which perhaps threaten the environment the most – are unlikely to remain

[28] For example, see Dillon & Fischer, 1992; Rappaport & Fhherty, 1992.
[29] Similarly, the UN Global Compact which is currently hailed as a new partnership between the UN and international business that would promote environmental sustainability cannot be effective because "…the UN has neither the mandate nor the capacity to verify compliance' (Ruggie, 2000)

committed to voluntary ethical codes, because brand names often do not play any significant role in those sectors.

All this, however, is not to suggest that business-led voluntary initiatives are completely irrelevant. Indeed, codes can be particularly relevant in promoting environmental sustainability from at least three perspectives. First, they can improve corporations' behaviour where previously there may have been few standards at all. Second, they can be used to hold corporations to account publicly (though not legally) if their practices are in contravention to their principles. Third, if used inclusively and transparently, codes can be used to develop "best practice" and serve as a milieu upon which binding regulations can be developed later (Curtis, 2001).

Nevertheless, whereas voluntary initiatives may be necessary to improve the environmental performance of MNCs, they are clearly insufficient, not least because they can easily be used by corporations primarily for public relations. As Zyglidopoulous (2002:146) puts it in the context of Shell's operations in Nigeria, corporate self-regulation may be nothing more than an 'international reputation side-effect.' In this regard, ethical codes of conduct may not make any real impact on the behaviour of business organisations. It is no surprise, therefore, that case studies of the recent performance of 20 MNCs by Greer and Bruno (1996) conclude that despite more voluntary codes of conduct by industry designated to foster the image of greater environmental responsibility, there have been little improvements with the corporations continuing with activities that are environmentally harmful.

Owing to these inherent weaknesses of voluntary initiatives, the need for more effective regulation of business activities is being increasingly recognised as the most

effective way of promoting environmentally responsible behaviour by MNCs. One UNDP (1999:100) report rightly notes that '…multinational corporations are too important and too dominant a part of the global economy for voluntary codes to be enough. Globally agreed principles and policies are needed for …environmental sustainability – to avoid degradation and pollution'. But what is the appropriate forum to regulate MNCs?

I suggest that developing host countries can and should remain primarily responsible for regulating corporations. Calls for the role of the state in regulating foreign corporate activity is not new. The Rio Declaration requests every state to 'enact effective environmental legislation' and to 'develop national law regarding liability and compensation for the victims of pollution and other environmental damage'.[30] Concerning this approach, ESCAP/UNCTC (1990:75-76) also suggests that: "[g]overnments should look into the possibility of revising policies and regulations so that TNCs are bound to adopt the environmental standards of their home countries…"[31] Indeed many studies have found that countries that reap the maximum benefits from multinational investments are those that regulate them and keep their abuses in 'check'[32]

It appears, therefore, that the question is not whether host countries' environmental regulation of corporate activity is essential in determining MNC environmental performance, but, whether such approach is feasible in the current global environment. For many scholars, it would be extremely difficult, if not impossible for developing host countries to regulate the activities of giant multinationals in the current

[30] See principles 11 and 13 of the Rio-Declaration respectively. Available online at: http://www.unep.org/Documents.multilingual/Default.asp?DocumentID=78&ArticleID=1163
[31] Quoted in Morimoto, 2005:11
[32] See for example, Stiglitz, 2002; Chang, 1998.

global economic order. Three major factors account for such pessimistic viewpoint. First, and paradoxically, much as globalisation has increased the tremendous powers of MNCs, it has also altered the means through which MNCs can be regulated to minimise their negative environmental effects. For example, under the Trade-Related Investment Measures Agreement (TRIMS) at the WTO, it has been made illegal to control MNCs through local content requirements. The second obstacle is the prevalence of public corruption in developing countries which significantly prevents the effective enforcement of strict environmental policies on MNCs. Third, many developing countries often decline to press for greater levels of corporate regulation because of the fear of losing FDI inflows.

To my mind, however, it is both feasible and necessary for the nation-state to regulate MNC activity. Although MNCs have undoubtedly weakened state control over national affairs, the tremendous powers of global corporations do not completely eliminate the autonomy of the state. The fact has always been that unlike nation states, MNCs do not have sovereign power, and the latter often strive for the support of the former because their decisions can be blocked and reversed by the states in which they operate. As Wood (1997:12) aptly puts it "[b]ehind every transnational corporation is a national base, which depends on its local state to sustain its viability…" This is to say that much as developing countries may find it difficult to remain competitive without multinational investments, MNCs can also hardly survive without the basic structure of the modern state system. Thus, to the extent that the relationship between host countries and MNCs is one of partnership and cooperation, states can exert greater influence over the activities of MNCs despite the latter's economic might.

The failure of developing countries to monitor effectively the environmental practices of MNCs largely stems from their fear that strict environmental regulations would discourage multinationals from locating in their countries. Given the widely held claim that openness to multinational investment represents a "magic bullet" to their developmental challenges, many developing countries still regard environmental sustainability as a 'luxury' that they are willing to forgo in favour of further economic development. But does increased multinational activity necessarily result in high growth rates? Rodrik (1997) has rightly argued that there is no hard evidence to believe that international capital mobility is the panacea to the problems of the developing world, and some reasons to think that it may even make things worse[33]. To be sure, international flows of goods and investment across countries with different environmental standards are likely to concentrate pollution in developing countries that are noted for their lax environmental regulations. Thus, other than necessarily contributing positively to sustainable development, multinational investment may as well increase "the speed with which competition lowers the standards for efficiency, distributive equity and ecological sustainability" (Daly, 1993)[34].

Moreover, it is important to recognise that multinational corporations have their own interests which may or may not necessarily coincide with the national interest of the countries in which they operate. The fact that profit maximisation is the primary objective of corporations suggests that sustainable development concerns are often of derivative importance to business enterprises. From this perspective, states can obtain the maximum benefit from multinational investment and minimise the cost of their

[33] Cited in Boafo-Arthur, 2000:131
[34] , quoted in Hansen, 1998:20

environmental impacts only if they guide the process in a manner that is compatible with their own developmental needs. This perhaps explains why countries such as China, a well-known effective and strong state achieved high economic growth rates from multinational investments.[35]

In 1995, for example, China promulgated the "Interim Provisions for Guiding Foreign Investment" and "The Guiding List of Industries for Foreign Investors." These laws, among other things, encouraged investment in new technologies for the comprehensive utilization of resources and environmental protection, while at the same time prohibited projects that adversely polluted the environment (Guoming, et al, 1999:10). Thus, to the extent that China reaped substantial benefits from FDI, it may have been because the state never succumbed to the "multinationals-will-do" rhetoric embedded in neo-liberal orthodoxy. Instead, environmental responsibility on the part of corprations had been achieved largely due the state's capacity to enforce environmental regulations. Similarly, Dasgupta et al (2000) found that environmental performance of MNCs in Mexico were largely depended on the strength of local regulation, both government and "informal", among others.

Contrary to these experiences, many Latin American countries adopted a laissez faire attitude towards MNCs and were more harmed than helped by foreign corporate activity. For example, UNCTAD (2003: 76-78) finds that a large number of countries in Latin America resorted to rapid liberalization of trade and foreign investment after the mid-1980s and enjoyed large increases in FDI. But in most of these countries, gross capital formation as a proportion of GDP either stagnated or fell. This indeed refutes

[35] For details of FDI and China's economic growth see Wu, 1999.

Friedman's (1999:87) thesis that, '[a]s your country puts on the Golden Straitjacket[36], two things tend to happen: your economy grows and your politics shrink'. Even where FDI is noted to have stimulated economic growth, such as in the "Tiger" economies of Asia[37], inadequate state regulation of foreign corporations resulted in high incidence of environmental degradation. According to the Asian Development Bank (2001:12), resource degradation and environmental pollution in both East and South Asia is so 'pervasive, accelerating, and unabated' that it threatens human health and livelihood.

From the above analysis, it appears that increased multinational investment does not automatically result in economic growth and environmental protection. On the contrary, taking advantage of the opportunities offered by MNCs in sustaining the environment 'is contingent on bringing to bear a relatively powerful set of domestic institutions. Most obviously, it seems to require a state capable of engaging capital in a project of local economic transformation' (Evans, 1998:219). Host developing countries therefore have the crucial responsibility of designing and implementing the appropriate domestic regulatory mechanisms in order to attract "quality" FDI. After all, without '[a]n effective state…sustainable development both economical and social is impossible' (World Bank, 1997:1). Weiss (1998:13) puts it indirectly: 'strong states tend to be midwives (even perpetrators) rather than victims of globalization'.

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[36] What Friedman (2000) terms "Golden Straitjacket" is a package of policies – including balanced budgets, economic deregulation, openness to trade and multinational investment and a stable currency – that countries that wish to remain competitive in a globalised world must adopt.

[37] For example, accounting for half of a total FDI flow of $101 billion to developing nations in 1995, multinational investment is noted to have played a crucial role in the economic development of East and Southeast Asia (Asian Development Bank, 1999:1).

The reason for this is not hard to find. In the absence of a strong state that can effectively enforce environmental legislations, a conducive atmosphere is created for companies to act without adequate regard for the interest of society as a whole. Not coincidentally, in the context of Nigeria's lax environmental policies, the Shell Petroleum Development Company never hesitated to state that: '[i]t is not our role to develop the communities. But we feel our responsibilities that we have to work with these communities and we like to assist these communities, to help them in some ways' (Tell Magazine, 2002:49).

If corporations do not see it as dutifully binding upon them to bring development, governments, who are nothing more than the employees of the citizenry have the critical role to ensure that business entities do not pursue their narrow economic interests to the detriment of society. After all, in today's world where liberal democracy seems to be sweeping across countries, it is weak governments that will ultimately pay the price of unsustainable development. Daly and Goodland (1994) argue that, 'nations that do not count the full environmental costs in the prices of their exports are in effect subsidizing those exports as surely as if they taxed their citizens and transferred the money to the exporters.'[38] From this perspective, the need for states to control MNCs is thus not only feasible but also necessary, because the failure to prevent greater environmental abuses by global corporations can possibly dent state legitimacy.

It is important to add, however, that the effectiveness of state regulation in enhancing sustainable development depends largely on the character and the will of the dominant political elite. Where the commitment of the political leadership to the goal of environmental sustainability in the country concerned is low, corrupt governments may

[38] , Quoted in Levinsen (1995:4).

find it more profitable to connive with corporations in setting up lax environmental standards. Hence, to make the state a more effective regulator of corporate activity, international efforts are required.

First, international efforts should augment, not restrict, the policy space and powers of states to regulate foreign investment in order to meet national developmental objectives. The local content provision under the proposed TRIMS agreement has the potential of weakening the ability of developing host countries to bargain strategically with multinational enterprises and maximize their contribution to sustainable development. Thus, if the proposed multilateral agreements on trade and investment are so concerned about the rights of MNCs, some attention must also be paid to their obligations and responsibilities towards the developmental needs of host countries. A reform of this sort would need to incorporate legal rights for citizens and communities affected by corporate activities; impose some duties on corporations with respect to environmental matters; and enact effective legislations to ensure high standards of behaviour wherever corporations operate. Such reforms will not only permit developing countries to guide MNCs in a manner that will be compatible with their national interests, but will also save the WTO from being legitimately accused of largely representing the interest of global corporations.

Second, in relation to the argument that developing country governments are so corrupt that they can hardly implement effective regulatory mechanisms against powerful MNCs, it is important to recognise that bribery often involves two partners: the giver and the taker. And because both parties benefit from corruption, either of them may initiate a corrupt deal. Thus, for a more holistic approach to achieving sustainable development,

the international community needs to monitor effectively the conduct of foreign multinational corporations who sometimes engage in offering bribes to public officials to receive preferential treatments. The OECD's (1997) recent anti-bribery convention aimed at reducing corruption by sanctioning bribery carried out by companies based in OECD member states is a significant step forward in this direction[39]. However, the effectiveness of this convention would largely depend upon the extent to which it is effectively implemented.

Third, there is need to monitor and sanction not only global corporations, but also national governments that abandon their regulatory responsibilities of corporate behaviour. Taking the traditional and well developed route of establishing obligations on states in the form of legally binding agreements such as through conventions, rules could be developed requiring the state to regulate the operations of MNCs in their jurisdiction. If a state fails to fulfil its obligations, it could be penalised through an analogous body to regional human rights courts, such as the European Court of Human Rights, or the Inter American Court of Human Rights. This would aim to provide incentives for the development of national legislation and institutions that would act to regulate companies. National legislation would recognise countries as both home and host states, and provide the facility to hold the activities of MNCs and their subsidiaries in host countries to account in home countries, where appropriate (Christian Aid, 2002).

Nevertheless, while the above rule-based system holds the promise of turning multinationals into a more positive force for sustainable development, there must also be a firm commitment to adopt and implement best environmental management practices.

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[39] Selected excepts from the convention are available online at: http://www.cipe.org/publications/fs/ert/e28/lewise28.htm

This further requires corporations to recognise that even if the cost of sustaining the environment cuts deep into their profits, the reputation associated with being labelled a “green” business entity or otherwise makes good environmental management practices a worthwhile venture.

7. Concluding Remarks

The thesis of this paper has been that a sound regulatory mechanism is a precondition for preventing MNC environmental abuses like those in Nigeria. Admittedly, multinational corporations can, and some times do voluntarily play a significant role in enhancing environmental sustainability through the diffusion of cleaner technologies and best management practices. However, from one critical dimension, it would be imprudent to promote faith in voluntary ethical codes to the detriment of regulatory alternatives. The adoption and effectiveness of business-led voluntary initiatives is fortuitous, because it depends upon the commitment of a given corporation to the concept of corporate social responsibility. But if the environment is so significant for the survival of mankind, its protection should be objective and guaranteed rather than merely being fortuitous. Yet only in the context of legally binding regulatory measures will multinationals feel compelled to conduct business in an environmentally friendly manner. This is where the necessity of binding, regulatory measures enters the frame.

Moreover, not only are voluntary codes limited to a few sectors, but also, it is always uncertain whether today’s supposed “corporate citizens” will remain so tomorrow when being “green” deeply threatens their profit motives. The stark reality then is that ‘the ground rules of profit make it hard [for MNCs] to be a friend to the environment’

(Suzuki, 1993:137) all the time[40]. It appears, therefore, that so long as industry self-regulation remains the central paradigm for influencing corporate environmental performance, the contribution of MNCs to sustainable development will, at best, remain minimal. The United Nations Research Institute for Social Development (1995: 154) corroborates this view: '[t]he actual contribution [of MNCs] to enhancing … sustainable development has been modest – and sometime clearly negative... International business cannot be expected to author their own regulation: this is the job for governments'.

Indeed, it would be a big mistake for developing countries to adopt a complete laissez faire attitude towards MNCs because of FDI inflows. After all, openness to MNC investment is not necessarily associated with higher growth rates. Worse still, as the experience of Nigeria illustrated in this paper has shown, where the state adopts a hands-off strategy, waiting for multinational firms to bring development, it is likely to face severe environmental risks. Emphatically, all this is not to suggest that voluntary initiatives are completely irrelevant, but to make a case that much as morality without laws can hardly ensure a just society, responsibility without accountability on the part of giant global corporations can hardly ensure an environmentally sustainable society. From this perspective, effective government regulation and voluntary approaches must be seen as complements rather than substitutes.

Unfortunately, national governments are often too weak and too desperate to attract FDI to hold multinationals accountable for their environmental crimes. It therefore seems necessary that an international, legally-binding mechanism is developed to build a counterweight to corporate power. As Christian Aid (2002) has rightly emphasised, the growing power and influence of MNCs, coupled with the inadequate

[40] quoted in Mikler, 2003:13

national and international environmental legislations means that now, more than ever, we need international, legally-binding regulation to stop the worst MNC environmental abuses.

In addition to effective regulatory measures, fair trade rules are critical in ensuring that poor countries maximise their benefits from multinational investment. Implicit in this idea is the suggestion that the multilateral rules governing international trade and investment be re-written in a manner that will not only enhance the powers of MNCs, but also impose greater responsibilities on them in host developing countries. For example, the proposed TRIMS and TRIPs agreements at the WTO should be reformed to enable poor countries to regulate the activities of foreign investors in line with their developmental needs, and to generate greater and cheaper transfer of technologies to developing countries. The ability of poor countries to purchase "cleaner technology" means that they will no longer conceive of the "dirty technologies" of the developed world as a "necessary evil".

While these changes to the global governance system may not easily take place, such reforms are absolutely crucial if we are to enhance a more positive role for multinational enterprises in promoting the goals of sustainable development.

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