

In the case of the Code of Conduct for Transnational Corporations, both developed and developing countries have discovered that it is not always possible to adequately supervise the activities of transnational corporations due to their very success and to the growth of interdependence. Consequently, it was agreed that it would be desirable to establish a code which would set out, amongst other things, the various responsibilities of the host state as well as the home state in relation to the activities of the transnational corporation.

This exercise is not as far advanced as the other two, but a number of important legal principles are evident. Among the many issues in the code in the area of host state responsibility is the question of state sovereignty versus the applicability of international law. Does the concept of "permanent sovereignty", which is contained in a number of U.N. resolutions, give host countries an unqualified right to take whatever measures they wish in respect of such matters as natural resources and economic activities? Some countries argue that "state sovereignty" justifies the application of domestic law to the exclusion of international law apart from those instances where they have freely and specifically accepted the principles. If so, host countries would have a judicial basis to nationalize without any reference to international law foreign enterprises operating within their territories.

In relation to home state responsibility, the crucial issue is extraterritorial application of foreign laws. Developing countries argue for the need for provisions in the code calling for greater control by home states over transnational corporations which are headquartered in their territory. However, it is well recognized that home states do not always restrict themselves to exercising control over their corporations on the basis of the principle of territorial jurisdiction. This could invite extraterritorial application of certain home state laws that may result in the transnational corporation being used as an instrument in the extraterritorial application of foreign policies or laws which in turn may conflict with those of the host country.

International Development Law in UN Legal Fora

Because of the importance of development issues in international relations, legal bodies have devoted increasing attention to their legal significance. Within the permanent machinery of the United Nations, the legal aspects of the New International Economic Order are being considered on both the general and technical levels. In the case of the former, the Sixth (Legal)