

the Statute of the International Court are treaties, custom, general principles of law and judicial decisions and teachings. Treaties and international custom as evidenced by the practice of states have proven to be the most important sources in practice.

Even when specifying their own voluntary nature, codes may over time become binding. This can occur as the practice of states in encouraging compliance to the codes, and engaging in follow-up procedures to the codes, can give rise to the status of customary international law. However, just as state practice in applying the codes became an international custom, so can state practice in not applying the codes. The evolution from a voluntary to a binding code may result from circumstances wherein state practice causes certain provisions of a particular code to become binding, while other provisions remain voluntary.

There are a number of major outstanding issues common to both the ongoing negotiations of the UN-ECOSOC's Code of Conduct on TNCs and UNCTAD's Transfer of Technology Code. These issues include the extent to which principles of international law prescribe standards for the treatment of MNEs. This is a fundamental question that cuts across many disputed provisions in the proposed codes. Many developing countries deny the validity of using principles of law, as these principles were developed prior to their independence, and thus are biased in favor of the developed industrialized countries.

Your law or mine?

A related outstanding issue concerns which country's laws will apply in the settlement of disputes. Competing and often conflicting claims to jurisdiction have frequently

List 2

Principal international and regional Codes of Conduct for foreign investment and multinational enterprises.

UN-related Codes		Date Initiated	Current Status
UN-ECOSOC	Code of Conduct on TNCs	1977	Under negotiation
UN-ECOSOC	Corrupt Practices Code	1976	Not implemented
UNCTAD	Restrictive business practices	1974	Adopted Dec. 5, 1980
UNCTAD	Technology transfer	1976	Under negotiation
ILO	Tripartite Declaration	1972	Adopted Nov. 1977
Other Codes			
OECD	Declaration, including Guidelines for MNEs	1975	Adopted June 21, 1976
EEC	Draft Code of Principles	1974	Not implemented
EEC	South Africa Code	1977	Adopted Sept. 20, 1977
OAS	Guidelines for Foreign Investment	1974	Adopted Jan. 1975
ANCOM	Common Treatment of Foreign Capital Code	1969	Adopted Dec. 1970
PBEC	Pacific Basin Charter on International Investments	1972	Adopted (Second Issue) May 7, 1978