

RESOLUTION OF THE EUROPEAN PARLIAMENT ON EUROPEAN UNION STANDARDS FOR EUROPEAN ENTERPRISES OPERATING IN DEVELOPING COUNTRIES: TOWARDS A EUROPEAN CODE OF CONDUCT*

(EUROPEAN PARLIAMENT)

Resolution on EU Standards for European Enterprises Operating in Developing Countries: towards a European Code of Conduct

The European Parliament;

- having regard to its resolution of 9 February 1994 on the introduction of a social clause in the unilateral and multilateral trading system¹,
- having regard to its resolution of 12 December 1996 on human rights throughout the world in 1995/96 and the Union's human rights policy²,
- having regard to its resolution of 15 January 1998 on relocation and foreign direct investment in third countries³,
- having regard to its resolutions on Indigenous peoples⁴,
- having regard to its resolution of 11 March 1998 containing its recommendation to the Commission on negotiations in the framework of the OECD on a multilateral agreement on investments (MAI)⁵,
- having regard to its resolution of 2 July 1998 on fair trade⁶,
- having regard to its resolution of 17 December 1998 on human rights in the world in 1997 and 1998 and European Union human rights policy⁷
- having regard to the two most authoritative internationally agreed standards for corporate conduct adopted by the ILO: the 1977 "Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy" and the 1976 OECD "Guidelines for Multinational Enterprises", and to codes of conduct agreed under the aegis of international organisations such as the FAO, WHO and World Bank and efforts under the auspices of UNCTAD with regard to the activities of enterprises in developing countries,
- having regard to the ILO Declaration on Fundamental Principles and Rights at Work, 18 June 1998, and its agreement of universal core labour standards: Abolition of forced labour

* *Source:* European Parliament (1999). "Resolution on EU standards for European enterprises operating in developing Countries: towards a European Code of Conduct", [A4-508/98], *Official Journal of the European Communities*, C 104, Part II, 14 April 1999, pp. 180-184.

¹ OJ C 61, 28.2.1994, p.89.

² OJ C 20, 20.1.1997, p. 161.

³ OJ C 34, 2.2.1998, p. 156.

⁴ OJ C 61, 28.2.1994, p. 69; OJ C 43, 20.2.1995, p. 85; OJ C 323, 4.12.1995,p.117; OJ C 141, 13.5.1996, p. 212.

⁵ OJ C 104, 6.4.1998, p. 143.

⁶ OJ C 226, 20.7.1998, p. 73.

⁷ OJ Minutes of that sitting, Part II, Item 9(b).

(Conventions 29 and 105), Freedom of association and the right to collective bargaining (Conventions 87 and 98), Abolition of child labour (Convention 138), and Non-Discrimination in Employment (Conventions 100 and 111),

- having regard to the United Nations Universal Declaration of Human Rights and in particular its call to every individual and every organ of society to contribute to securing universal observance of human rights, the 1966 International Covenant on Civil and Political Rights, the 1966 Covenant on Economic, Social and Cultural Rights, the 1979 Convention of the Elimination of All Forms of Discrimination Against Women, the 1994 Draft United Nations Declaration on the Rights of Indigenous Peoples,
- having regard to the decision of the European social partners to contribute to the implementation of actions aimed at eradicating all forms of child labour exploitation and to promote the rights of these children throughout the world,
- having regard to Article 220 of the EC Treaty regarding reciprocal recognition of court judgments, to the 1968 Convention on jurisdiction and the enforcement of judgments in civil and commercial matters⁸, usually known as the Brussels Convention, and to the Joint Action of 24 February 1997 adopted by the Council on the basis of Article K.3 of the Treaty on European Union concerning action to combat trafficking in human beings and sexual exploitation of children⁹,
- having regard to the 1997 OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions,
- having regard to Council Regulation (EC) No 1154/ 98 of 25 May 1998 applying the special incentive arrangements concerning labour rights and environmental protection provided for in Articles 7 and 8 of Regulations (EC) No 3281/94 and (EC) No 1256/96 applying multiannual schemes of generalised tariff preferences in respect of certain industrial and agricultural products originating in developing countries¹⁰, and to Parliament's resolution of 14 May 1998 on a code of conduct for arms exports¹¹,
- having regard to numerous initiatives on the part of individual enterprises, their associations, trade unions and non-governmental organisations, together with international voluntary standards such as Social Accountability 8000,
- having regard to the Hearing on `EU standards for European Enterprises operating in developing countries` of 2 September 1998 in the Committee on Development and Cooperation,
- having regard to Rule 148 of its Rules of Procedure,
- having regard to the report of the Committee on Development and Cooperation and the Opinion of the Committee on External Economic Relations (A4-0508/98),

⁸ OJ L 299, 31.12.1972, p. 32

⁹ OJ L 63, 4.3.1997, p. 2.

¹⁰ OJ L 160, 4.6.1998, p. 1.

¹¹ OJ L 167, 1.6.1998, p. 226.

- A. whereas the EU as the largest development aid donor, and European enterprises, as the largest direct investors in developing countries, can play a decisive role in global sustainable social and economic development,
- B. deeply concerned about numerous cases where intense competition for investment and markets and lack of application of international standards and national laws, have led to cases of corporate abuse, particularly in countries where human rights are not upheld,
- C. stressing that no company should profit from any competitive advantage resulting from disregarding basic labour laws and social and environmental standards; and recognising increasing evidence that corporate social responsibility is linked to good financial performance,
- D. bearing in mind that there is increasing consensus amongst business and industry, trade unions, NGOs and governments both from developing countries and from the industrialised world, to improve business practices through voluntary codes of conduct,
- E. whereas in this connection a process of review is currently under way in the OECD, in consultation with representatives of companies, labour and other components of civil society, to strengthen the guiding principles set out by the Organisation for multinational companies,
- F. stressing that voluntary and binding approaches to corporate Regulation are not mutually exclusive, and adopting an evolutionary approach to the question of standard-setting for European enterprises,

Voluntary codes of conduct

1. Welcomes and encourages voluntary initiatives by business and industry, trade unions and coalitions of NGOs to promote codes of conduct, with effective and independent monitoring and verification, and stakeholder participation in the development, implementation and monitoring of these Codes of Conduct; emphasises, however, that codes of conduct cannot replace or set aside national or international rules or the jurisdiction of governments; considers that codes of conduct must not be used as instruments for putting multinational enterprises beyond the scope of governmental and judicial scrutiny;
2. Reiterates its calls on the Council to develop a joint position on voluntary codes of conduct, on the lines of the code of conduct for arms exporters, taking due account of the fact that "self-policing" is not always the answer;
3. Stresses that the content of a code, and the process by which it is determined and implemented, must involve those in developing countries who are covered by it;
4. Believes that special attention must be paid to implementing codes in respect of workers in the informal sector, sub-contractors and in free trade zones, notably concerning recognition of the right to form independent trade unions; and against corporate collusion in violations of human rights;
5. Believes that a code should recognise the responsibilities of companies operating in conflict situations by ensuring that a Code covers the Amnesty International Human Rights Principles for Companies, Human Rights Watch recommendations to companies, and the UN Code of Conduct for Law Enforcement Officials;

6. Believes that under the voluntary codes of conduct European companies should comply with EU environmental, animal welfare and health standards;
7. Stresses that indigenous peoples and their communities should benefit from such codes of conduct recognizing their important role for sustainable development;
8. Welcomes the fact that in the present context of globalisation of trade flows and communications as well as of increased vigilance of NGO's and consumer associations, it seems to be increasingly in the interest of multinational undertakings to adopt and implement voluntary codes of conduct, if they want to avoid negative publicity campaigns, sometimes leading to boycotts, public relation costs and consumer complaints;
9. Considers that enterprises should contribute economically and socially to the development process in the affected areas, in compliance with the guidelines laid down by the public authorities concerned;
10. Recommends that an 'evolutionary approach' be weighted towards a continuous and gradual improvement of standards; takes the view that this must reflect the enterprises' own obligations to make improvements;

European enforcement mechanism

11. Reiterates its request to the Commission and the Council to make proposals, as a matter of urgency, to develop the right legal basis for establishing a European multilateral framework governing companies' operations worldwide and to organise for this purpose consultations with companies' representatives, the social partners and those groups in society which would be covered by the code;
12. Recommends, that a model Code of Conduct for European businesses should comprise existing minimum applicable international standards:
 - the ILO Tripartite Declaration of Principles concerning MNEs and Social Policy and the OECD Guidelines for Multinational Enterprises;
 - in the field of labour rights: the ILO core Conventions;
 - in the field of human rights: the UN Declaration and different Covenants on Human Rights;
 - in the field of minority and indigenous peoples' rights: ILO Convention 169, Chapter 26 of Agenda 21, 1994 Draft United Nations Declaration on the Rights of Indigenous Peoples, UN Declaration on the Elimination of All Forms of Racial Discrimination;
 - in the field of environmental standards: UN Convention on Biological Diversity, the Rio Declaration and the European Commission proposal for the development of a code of conduct for European logging companies (COM(89)0410) and the relevant UN Conventions in the fields of protection of the environment, animal welfare and public health;

- in the field of security services: Common Article 3 of the Geneva Conventions and Protocol II, and the UN Code of Conduct for Law Enforcement Officials;
- in the field of corruption: the OECD anti-bribery convention and the European Commission communication on legislative measures against corruption (COM(97) 0192);

but should also include consideration of new international standards which are currently being developed;

13. Reaffirms its support for the creation of a 'Social Label';

14. Calls on the Commission to study the possibility of setting up a European Monitoring Platform (EMP), (already proposed by some trade associations) in close collaboration with the social partners, NGO's from North and South and representatives of indigenous and local communities;

15. Calls on the Commission and the Member States to take coordinated action within the OECD, the ILO and other international fora to promote the establishment of a truly independent and impartial monitoring mechanism which is internationally accepted;

16. Believes that an independent monitoring and verification body could only prove useful if it is highly skilled, if it has appropriate procedures and, above all, if it is widely accepted as being objective and impartial;

17. Recommends that business and industry provide dissemination of information about their voluntary initiatives and conduct to the monitoring mechanism so that their compliance with a European Code of conduct, international standards and private voluntary codes of practice (if adopted) could be properly assessed;

18. Recommends that the monitoring mechanism promote dialogue on standards met by European enterprises, the identification of best practice, as well as being open to receiving complaints about corporate conduct from community and/or workers' representatives and the private sector in the host country, NGOs or consumer organisations, from individual victims or from any other source;

European Parliamentary action

19. Proposes that during the new legislative period, special rapporteurs are appointed for a period of one year and annual hearings are held in the European Parliament, inviting the social partners and NGOs from the South and the North until such a time as a European Monitoring Platform is established by the Commission;

20. Recommends that public hearings be organised regularly in the European Parliament in order to discuss specific cases, of both good and bad conduct, and that all persons concerned (including enterprises) be invited to attend them;

Role of European development cooperation

21. Recognises that a responsibility for applying internationally agreed standards rests with the governments of the developing countries themselves; therefore welcomes recent EU initiatives to strengthen and extend the coverage of political dialogue with developing countries and to make "good governance" an essential element of EU cooperation policy;
22. Considers that resources must be set aside to support the governments of developing countries, so as to help ensure that international standards are incorporated in those countries' laws, and that technical and financial assistance must be granted to monitoring groups in the host countries;
23. Calls on the Commission to enforce the requirement that all private companies carrying out operations in third countries on behalf of the Union, and financed out of the Commission's budget or the European Development Fund, act in accordance with the Treaty on European Union in respect of fundamental rights, failing which such companies would not be entitled to continue to receive European Union funding, in particular from its instruments for assistance with investment in third countries; calls on the Commission to prepare a report on the extent to which private companies to which it awards contracts have been made aware of these obligations; further recognises that private companies acting as agents of the Commission in the field of development cooperation are already obliged to adhere to OECD standards concerning best aid practice and human rights and sustainable development principles enshrined in the Lomé Convention;
24. Calls on the Commission to ensure that the development strategy to strengthen the private sector environment in developing countries, should specifically integrate the role of European-based multinational enterprises, and take forward an investment agreement with the ACP to promote economic growth and poverty reduction;

Other actions at European level

25. Calls on the Commission to improve consultation and monitoring of European companies' operations in third countries through the mechanisms of the Social Dialogue within Europe, and the operation of democracy and human rights clauses in trade agreements with third countries outside Europe;
26. Recommends as a matter of urgency that at least the ILO Declaration of Fundamental Principles and Rights at Work, of 18 June 1998, be an explicit part of any future agreement the EU negotiates with third countries;
27. Calls on the Commission to ensure that consideration is given, with an appropriate legal base, to incorporating core labour, environmental and human rights international standards when reviewing European company law including the new EU Directive on a European-incorporated company;
28. Calls on the Commission to bring forward proposals for a system of incentives for companies complying with international standards developed in close consultation and cooperation with consumer groups and human rights and environmental NGOs - such as in procurement, fiscal incentives, access to EU financial assistance and publication in the Official Journal;

Actions within international institutions

29. Recommends that the European Union seeks to work en bloc to strengthen existing ILO and OECD instruments, in particular in the review now underway in the OECD, and within the United Nations, to ensure more powerful and effective monitoring and enforcement mechanisms, and that

EU efforts notably go into reviving the UN Commission on TNCs for it to be entrusted with concrete tasks in the context of the monitoring and implementation of Codes, along with the OECD Committee for International Investment and Multinational Enterprises and the ILO's Department for Multinational Enterprises;

30. Strongly recommends that in connection with negotiations on investment agreements which could be concluded in either the OECD or the WTO, the European Union not only contribute to establishing the legitimate rights of multinational enterprises, but also their duties - with due regard to the present minimum applicable international standards - in the field of

environment, labour and human rights; recommends that a monitoring mechanism affording every guarantee of impartiality and independence be incorporated in such an agreement;

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31. Instructs its President to forward this resolution to the Commission, the Council, the ILO, the WTO, the OECD and the governments and parliaments of the Member States.

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