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Transnationals and New Economic Order

The first Development Decade has clearly been a failure, as has recently become more and more conspicuous. The wider this fact has been broadcast, the more did the so-called "Internationals", "Multinationals", or "Transnationals" get in the firing line of national and international criticism. Hunger, disappointment, and bitterness produce rising pressure within countries, and all of them accelerated the search effort for finding a scapegoat allegedly guilty of all these sins. Soon it proved possible to point to the roots of all evils: development aid and industrialization efforts had been sentenced to failure as long as profit-grabbing multinational companies were the only ones to collect the fruits of all development work. There was, of course, no lack of spectacular revelations of scandals. The effect, in a large number of countries of the so-called Third World were new laws enacted or existing ones made more stringent and/or foreign property expropriated.

Since then, the general mood seems to have sobered down slightly. People tend to recognize that neither their own, state-directed development programmes nor bilateral and/or multinational financial aid from abroad can initiate a continuous process of industrialization without the technological and economic knowledge which is one of the intangible assets of western private enterprise. Even some politicians would be well advised to realise that neither the US nor Europe nor Japan have started their own growth in the past without the needed outward impulses from foreign private enterprise.

It has to be acknowledged that every and each government is

not only legally entitled but is even pledged to direct and control the flow of incoming and outgoing capital and know-how in such a way that its subjects have the optimal profit therefrom. Individuals in more advanced countries who still tended to harbour doubts in this fact were quickly taught a more realistic attitude when they found oil dollars hunting for industrial possibilities of investment.

In this sense, it must be seen as progress that, in connection with the New Economic Order, international agreements on the activities of transnational groups – as the UN now has dubbed them – are discussed, too. However, not all the participants in such talks seem to realise the factors that control direct investment – i.e. the combination of private capital and know-how – to developing countries. Recent years have produced the experience that mainly those countries attracted foreign investment where companies, in the longer term, were guaranteed sufficient growth chances together with a solid role of law. Such an investment climate, however, cannot be created simply by setting up a Code of Conduct enforcing a certain behaviour on the foreign investors but it requires of the countries involved a fundamental economic policy which estimates the value of direct investments at least as highly as foreign trade. UN resolutions which have so far been passed in this field, unfortunately, display not a trace of such intentions but many more pointers to the uncontested fact that every established government has the right to direct, to make regulations, and to nationalize.

This onesidedness is the more harmful as, at the same time, it is taken for granted on principle that any conflict will have to be subjected to national law, which may be changed at will at any moment. Only in individually named cases, governments are to settle compensation problems by agreement "in any other peaceful manner". There is no hint that statutory obligations in international law have to be observed. The security enshrined in a rule of law, which is not yet a fully sufficient but necessary condition for direct investment, has thus been abandoned. Governments which operate exclusively under such rules can hardly hope for capital imports flowing continually into their countries.

To resolve the conflict between government entitlement to regulate and to nationalize, on the one hand, and the need to attract foreign capital and know-how in sufficient measure for a successful development policy, on the other, is possible only if and when the Code of Conduct now under discussion will be built up logically by the participating states, by adding fundamental principles binding also them, which would result in a GATT-like network of treaties. Such an internationally binding network would give developing countries sufficient scope for considering their economic conditions whilst also establishing a Rule of Law of such firmness without which private companies cannot survive for evolving their specific kind of efficiency. However, it may be doubted at present, whether UN is in a position to persuade the governments in question to the conclusion of such a network of agreements.

Manfred Holthus