

Human Rights and Social Standards - bad and good practices. Corporate Codes of Conduct - policy options for German Stakeholders?

Context of work: My name is Ronald Köpke, I am a researcher at Hamburg School of Economics and Political Science (HWP), and there currently working on Codes of Conduct. Between 1996 and 1998 I carried out several field studies on Export Processing Zones and Garment Industries in the Caribbean Basin.

I will concentrate on 4 points:

1. the problem of regulation as dealt with in the codes of conduct of corporations;
2. codes and their contents;
3. monitoring and verification;
4. possible political approaches for multi-stakeholder agreements

1.The subject: or the problem of regulation

Relocations of production facilities of labour (cost) intensive production processes in developing and newly industrializing countries have undoubtedly increased in dynamics since the beginning of the 90s. – This is apparent in the emergence of a new generation of *Free Export Processing Zones* (FPZ).

At the same time, public interest in the employment and environmental conditions of these corporations is increasing, in most cases through the public exposure of "bad practices".

According to estimates of the International Federation of Labour (*Internationaler Gewerkschaftsbund IFBG*), fundamental rights are being violated in this respect in 116 countries.

Mainly affected are the industrial sectors clothing, toys, sporting goods, carpets and rugs, footwear and products for agricultural export (fruit, vegetables and flowers).

In this year's report from the ILO on the current situation of industries manufacturing footwear, leather goods, sportswear and clothing, and which was prepared for the Tripartite Meeting on 16-20 October, voluntary standards of multinational companies have been discussed in a broader public context for the first time at the ILO level:

Due to the replacement of non-export oriented industries, the approximately 30 million jobs in these branches have experienced a relocation to exporting countries – above all to the People's Republic of China where all of the large trading groups that are active on the German market have their goods manufactured. (Karstadt/ Quelle Ltd., Otto/ Eddie Bauer Group, C & A, METRO/ Kaufhof Ltd. etc.)

The new FPZ-suppliers are a systematic result of the promotion of foreign trade in accordance with a focus on exports and increased market protection in the early 1990s (the tariff preference systems of the US and the EU). Especially in the garment and sportswear goods industries, they are a result of specific changes in production and marketing: Since the mid 90s, the tendency of relocation has been partially reversed in the US and Eastern Europe due to the "just in time" principle and quality control.

In general, however, these changes will nevertheless intensify global competition between locations in the areas of wages and social standards. Today, 131 locations compete against one another in the clothing sector for the markets in Europe and the US.

From 1990 until today the share of Asian production has increased from 69% to 72%. China alone has 20% of global production and, together with Hongkong, its exports are worth more than 30 billion US\$ p.a., making it the largest production location in the world, followed by India.

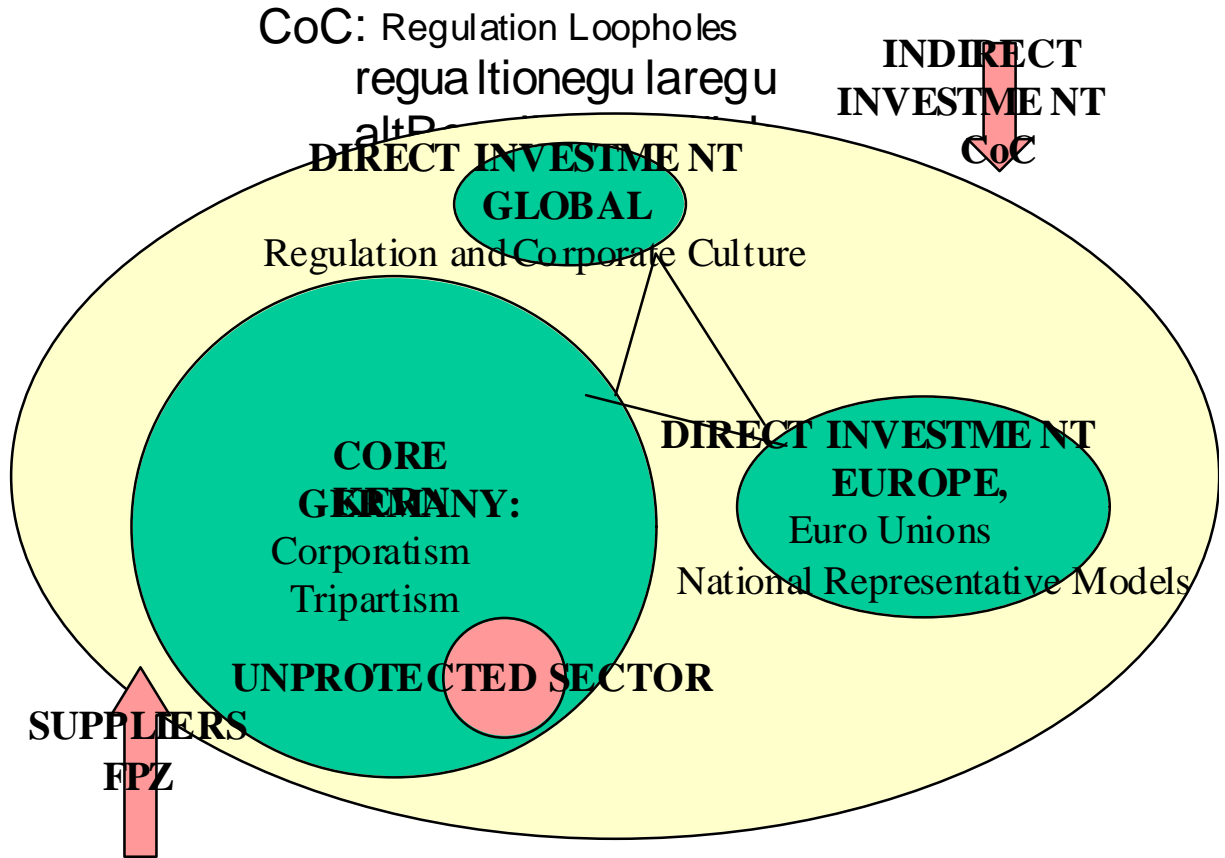
According to estimates by the ILO, transnational corporations have voluntarily passed laws on unilateral codes of conduct, foremostly because of media pressure and organized civil pressure groups of consumers, such as advocacy NGOs. The main concerns of the corporations is the image of their brands.

German marketers indicated in interviews with us that this was not the case for their immediate clients, but they did not deny the effects of negative publicity.

Let me recall what is at stake in the debates about codes of conduct with this transparency: the international debate on codes of conduct for multinational corporations is explicitly concerned with the **labour conditions in the case of indirect investments**, that is, in suppliers who are legally separated from the corporations in Germany – and thus remain largely outside the scope of the traditional debate on regulation.

We need to keep in mind that private regulation is a form of soft law that cannot replace hard law regulations of social conditions.

REGULATION LOOPHOLES:



In international debates on codes of conduct, the specific regulation problem of the suppliers is taken into consideration. Above all, particularly we are talking on **Type I Codes**.

<i>Typology</i>		
Type	Objective	Examples
Suppliers - Code TYPE I	Regulation of labor conditions of suppliers and sub-suppliers	ADIDAS Salomon, KARSTADT/ Quelle Ltd.,C&A, Otto/ Eddie Bauer Group
Statement of business principles / Standards of Engagement TYPE II	environment and rights of ethnic minorities etc.	EXXON Mobil, Shell, British Petroleum
Code of Conduct in global Type III	Standard for employees of global companies	BASF, Bayer

Companies of Type I are those in which immediate clients are relatively important and who in the north are almost exclusively marketed.

Sceptical positions about the implementation of regulations for private codes of conduct of this type can be summarized as they have been by a roundtable discussion held by the American Friends Service Committee in Hong Kong, May 2000:

"Are codes simply promoting a culture of minimalism in which corporations make the most minor adjustments to meet standards?"

Critical of a disembedding of social standards, the discussion came to the following conclusion: *codes pave the way for the privatization of human rights, they correspond with the neo-liberal de-nationalization of social policies; finally, from a southern perspective, codes are implemented while the supervisory boards of the FPZ are being permanently weakened.*

On the other hand: neither in the FPZ nor in the new agricultural farms can the regulation of labour conditions be guaranteed by traditional supervisory authorities (ILO inspectors, labour and health ministries), and there are also no unions operating in these corporations. On a global scale, the level of organization of unions in the exporting industries lies far below 5% in all corporations, and this is not only due to repression.

Approximately half of the employees in the branches investigated by the ILO are women whose wages are below those of men.

In the clothing and sportswear industries, young women make up the majority of workers – more than 80% of them are aged between 16 and 30 years, and this is obviously an empirical indication **of a gender problem:**

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- The debate about fixing minimum social standards by using codes must be traced back to the first code of conduct of the *International Chamber of Commerce* in 1937, the suggestions made within the frameworks of the ILO in 1977 (*Tripartite Declaration on Multinational Enterprises*) and the OECD (1976-Declaration), as well as the *Centre for Transnational Corporations* (CTC) established within the framework of the UN in 1974 (After 18 years of negotiations, the presentation of a set of codes was dismissed at a UN conference in 1992).
- After lengthy negotiations, new guidelines were determined in June 2000 for OECD countries. At the same time, minimum standards for corporations were defined within the framework of the UN Global Compact, to which 50 global companies declared their support in July 2000. Global Compact also had been signed by some German TNCs as Daimler.
- Nevertheless, codes of conduct are revealing a distinct tendency of "*disembedding*" minimum social standards. The basic question is: **How can we link these codes to institutional and public regulations? Solving this question is the aim of attempts to engage all involved parties (including NGOs) through so called "stakeholder approaches": In this context, governments can play a role by organizing and setting standards as well as acting as mediators with regard to monitoring and verification.**
- **The move toward self-regulation is based on the discourse on business ethics, especially in the sense of social accountability and responsibility. The current debates are thus clearly derived from a domestic US context.**
- In the USA, codes of conduct as a voluntary instrument of self-regulation **have filled—probably not merely incidentally—a regulation loophole** (key words: weakly developed corporate structures) toward the end of the Reaganomic era.
- In Europe, discussions about corporate responsibility have a different background and were initially met with **positive responses in context, where due to a higher level of flexibility and deregulation the pressure for unions to act is much greater** than it is in Germany—i.e., in Holland and England.
- Interaction with human rights activists and consumers was mainly initiated in corporations by the PR departments (and also lawyers' offices). Meanwhile, it is rather the **purchasing and quality**

management departments that are concerned with the implementation of codes, ranging from private certification systems to a direct link between quality management and social auditing.

- In order to avoid misunderstandings, one important aspect must be emphasized: in Germany the discourse on the social standards of suppliers is clearly dominated by the corporations and not the unions or their representative bodies.

2. Codes and their contents

The SAI (Social Accountability Initiative) from New York assumes that there are now more than 500 codes existing worldwide. An investigation carried out by the ILO in 1998 on 215 codes reveals the following findings:

Share of topics covered in the 215 codes:

66% no discrimination
45% banning child labour
25% banning forced labour
15% the right to freedom of organization
40% minimum wages
75% guarantee of labour and health protection in the workplace
working hours
social security/employment contracts
ecological standards (ILO 1998, 21-27).

An OECD inventory of 182 codes from the year 1999 differentiates between:

- fair play;
- obeying prevailing laws;
- fair employment conditions; and
- ecofriendliness.

Fair employment conditions and laws are the most common criteria covered in 114 of the 182 codes (OECD Trade Directorate, Working Party of the Trade Committee, Codes of Corporate Conduct, an Inventory, 25-6 January 1999).

Most of the private codes contain the following basic principles that fundamentally correspond to the Core Labour Standards of the ILO:



The General Basic Principles in CoCs, according to the ILO Conventions

- **Slaves, forced labour etc. (conventions 29 and 105),**
- **Child labour (convention 181: eradication of worst forms of childlabor),**
- **Employment conditions such as employment and health protection and working hours (Convention 155 und Recommendation 164),**
- **Discrimination (based on race/sex etc) (Conventions 110/111),**
- **Union rights und collective bargaining (Conventions 87, 98, 135 and 134 recommended).**



Controversial Topics – due to their not being considered in the codes, or their non-fulfillment:

- **Wages covering basic costs of living (living wage);**
 - **Union organization and collective contractual agreements of wages and employment conditions;**
 - **The form of control/role of auditors;**
 - **The entire area of labour and health protection is almost a blackbox in exporting countries.**
 - **Convention 111 in cases of violations of women's rights by pregnancy tests and systematic sexual harassment.**
- **The lack of contract security**
 - **The lack of security for workers aged above 30 years**

A particular problem area:



LIVING WAGE Definition (Berkeley, July 1998):

"a net wage that is earned in a working week with a maximum of no more and no less than 48 hours in one country; that covers the needs of an average family (food, health insurance, education, drinking water, child care, transport to and from work, housing and electricity) and allows additional savings (10% of income)".

Codes in Germany

In the trade of clothing products, the code of conduct of the *Foreign Trade Association of German Retail Industry* (Außenhandelsverband des deutschen Einzelhandels, AVE) from November 1999 is currently playing a central role. I am referring to the *AVE-Declaration on codes of conduct guaranteeing social standards in purchasing*:

Karstadt Ltd. (Europe's largest retailer) has adopted the AVE-Code in May 2000. Other corporations, such as Otto/Eddie Bauer (the sixth largest clothing manufacturer in the world) and the Dutch company C&A are currently adjusting their systems to this code under the premise of reducing costs of complex procedures that have to be purchased externally.

The AVE-Code concerns Type I codes. Let me give you seven examples of our current survey.

<i>Company</i>	<i>Type</i>	<i>Activities</i>	<i>Context</i>	<i>Scope</i>	<i>Monitoring</i>	<i>Living Wage</i>	<i>Freedom of Association</i>
EXXON Mobil AG	2/ 3	Global		Company and supplier	internal		
PUMA AG	1	Eastern Europe, Canada, Australia and Latin	Involved in the national and international debates,	supplier chain	internal	Minimum Wage	X

		America.					
Triumph International	1	Global	EURATEX-CoC	Manufactures and direct suppliers	No Monitoring	Minimum Wage	X
ADIDAS Salomon Ltd	1/ 3	Asia, Caribbean Basin, Eastern Europe	AIP/ FLA, AVE-CoC, WFSGI CoC	Supplier chain	Internal and external (Verité)	Minimum Wage	X
KARSTADT/ Quelle Ltd	1	Asia, Eastern Europe	AVE-CoC	Supplier chain and manufactures	Internal and PPP Pilot	Minimum Wage	X
Otto/ Eddie Bauer Group	1	Asia, Latin America, Eastern Europe	SA 8.000, AVE-CoC	Supplier Chain	Internal (Hansa Consult), External (SA 8.000) and PPP Pilot	Living Wage (SA 8.000), Minimum Wage (AVE CoC)	X
C &A	1	Global Activities	AVE-CoC	Supplier chain	Internal/ SOCAM and PPP Pilot (AVE)	Minimum Wage	X

3. Monitoring und Verification

The above examples reveal that the fundamental norms are basically standardized: differences, however, exist in the monitoring procedures (see table). To provide more detail about the problem of monitoring, it is worth pointing out some selected test procedures and pilot projects:

- Test project *Public Private Partnership* according to the AVE-Code in the clothing industry in India in 2001: Otto Group, KARSTADT Ltd. and C&A in cooperation with BMZ (Federal Ministry for Economic Cooperation)/GTZ (Society for Technological Cooperation) and with the Otto Group in China.
- C&A, is a Dutch company, but the German location is the most important: - Monitoring was carried out through the company SOCAM, **internal monitoring** since 1997; until mid 2000 approximately 5,000 companies have been audited and certified according to a discrete code or standard (that includes the freedom to join unions, which is of course of little consequence in China). This is pointed out. In addition, we now know that C&A arranges contracts with accountants and auditing companies apart from SOCAM (a team of 6 persons) that hire local auditors via newspapers advertisements and train them in three-day intensive courses. There are obvious deficits in quality and transparency here.
- SA 8,000, of the SAI from New York: Adapted from a basic standard that remarkably enough includes the point “living wage”, a comprehensive system of accreditation, auditing and monitoring was created that was intended as a self-sustaining system (until now without any great success in America, but supported by the ITLGW, UN) - In Germany this system was modified, adapted and slimmed down by the company Otto (audits are foremostly carried out in China, Sri Lanka etc). Otto is said to follow the C&A model and to be setting up their own company for internal monitoring: HANSA Consult that is intended to perform similar functions as SOCAM. One primary area of criticism about SA 8,000 is that responsibility is allocated to the suppliers instead of to the multinational marketers.
- SA 8,000: The special case of COOP Italy: Integration of quality standards/management according to ISO 9000 and 14004 through the private SA 8,000, which was also intended (to make SA 8,000 appear to be as serious as ISO). Integration of social auditing and quality management through an external

system—this makes sense for corporations that i) can afford it, and ii) are not large enough to be able to afford their own auditing section. SGS and Norske VERITAS work for COOP Italy.

- Deichmann, a small company that experiments in cooperation with GTZ on a monitoring system adapted from SA 8,000 with 8 smaller footwear suppliers in India. Currently they are implementing a corrective action plan, financed with funds from the Public Private Partnership (PPP of the BMZ);
- ADIDAS Salomon: According to the American AIP/FLA this is number two after NIKE in the American market. The company has 10,000 suppliers worldwide. A standard has only been adopted in May 1998 (implemented after a public scandal in July following a report in the ARD TV-Magazine “Monitor”), negotiations about individual pilot audits with the German CCC). According to AIP/ FLA they must certify 20% of their suppliers until 2002. In the US, this will be carried out by the company VERITÉ and others.
- ETI in England: important as an example of an umbrella organization implementing a possible multi-stakeholder agreement—a possible model for sectoral agreements, for example in the sportswear industry between PUMA, ADIDAS, CCC, Aid organizations und BMZ. Pilots: China: clothing; Sri Lanka: clothing; South Africa/Zimbabwe: fruit; Costa Rica: bananas. Experiments/pilots, SHOULD THEY BE DESIRED: as follows:

Project Cycles of ETI-Pilots

- ❖ Baseline study/problem survey (national standards, specific problems and local partners);
- ❖ Implementation of monitoring/creation of manuals, if necessary, training of auditors of possible local partners (NGOs) and training of auditors and personnel management for specific aspects;
- ❖ Auditing through SGS, BVQI, VERITÉ etc./ or auditing through NGOs (Banana-Pilot);
- ❖ Verification through local NGOs/Unions;
- ❖ Corrective Action Plans;
- ❖ Implementation;
- ❖ Evaluation

- Similar: CCC Europe: H&M plus three other corporations in Sweden; companies in France
- MIGROS and two other corporations in Switzerland with the CCC/Declaration of Bern whose pilot monitoring actions will begin this week.
- MIGROS and FLP/flower campaign Cut Flower Industry >>>German flower campaign FIAN/Terres des Hommes/Brot für die Welt: Zimbawe/Uganda and Ecuador with products, exporters and importers.

4. Possible Political Approaches for a Multi-Stakeholder Agreement

Within the framework of the Ethical Trading Initiative, an umbrella organization has been set up by the Ministry of International Development aimed at winning over important corporations (the Sainsbury supermarket chain, Body Shop etc.), the larger NGOs (OXFAM, Save the Children) and the TUC and ITLGW for a joint agreement the most important component of which will be pilot-monitoring.

The ministry has a pro-active role by functioning as a mediator in building trust and providing technical assistance, through the DFID (Department for International Development) and providing financial assistance for overhead personnel of the ETI-Management.

Here, the starting point is a basic code that must be accepted by everyone. Some individual codes of corporations are utilized by the ETI as instruments for experimentation and improvement. Verification and monitoring procedures will be compared through pilot audits, or tested according to the principle of *best practices*.

The pilot audits are focussed on distinct problem areas; e.g., the Banana pilot: Freedom of Association.

In Germany, sectoral campaigns and agreements exist between corporations and individual NGOs for the control of employment conditions—for instance, in the carpet sector with Terres des Hommes and Brot für die Welt, or the Flower campaign. Other attempts are being made in the toy industry: MISEREOR-TOYS, and the clothing and sportswear sectors (CCC-negotiations with ADIDAS).

It is conceivable to reach sectoral agreements with the participation of the BMZ and/or the BMWI as well as agreements on punctual independent monitorings in individual countries where there have been incidents of conflict or where there is an obvious need for verification or doubts have been raised.

In addition, corporations, who up to now still do not allow outside parties to look into their practices after monitoring (KARSTADT: "*There are no partners for dialogue among NGOs*"; C&A: "*SOCAM is the best system that we could imagine*", ADIDAS: "*We have created the best monitoring system in the world* ") must accept the verification function of third parties (NGOs and unions in the north and in the south).

In this way more transparent standards could be established through the competition of models and this will contribute to their being reembedded in democratically legitimized regulations that suit the problem.