Research Report

Leiden Model United Nations 2015

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Forum: *Environment Commission*

Issue: *Legal responsibility of multinational corporations for environmental damage*

Position: *Chair*

Introduction

In association with modern development and technology, most multinational corporations (MNCs) have contributed greatly in the exponential increase of global environmental damage by many actions taken due to a growth in population which resulted in a high demand for goods and services. This causes companies to be in need of more products and resources, the production of which requires a lot of energy. Of course, MNCs have also had a great impact on society and contributed to globalization and providing the general public with products and services as quickly as possible, however, it is becoming a rising issue that the environment is being destroyed without compensation. Because of this it is the general public who end up carrying the MNC`s costs from environmental damage although the MNCs receive profits and do not take responsibilities for their actions. Not only is this unjust, it is unfair as well for those who suffer from poverty to compensate something they are not responsible for. Even though some laws have been issued in the passed to stop this from occurring, it seems that environmental law is a subject that many MNCs do not take seriously and violate with little or no consequences.

Definition of Key Terms

MNCs: multinational corporations are corporations that have facilities and other assets in at least one country other than their homeland, some of these have offices or factories in different countries and usually have centralized headquarters or a base where they achieve and organize global management.

Greenhouse gases: a gas, such as carbon dioxide, that contributes to the greenhouse effect by absorbing infrared radiation.

Environmental Law: the laws that regulate the impact of human activities on the environment, this relates to activities that affect air, water or land. It includes laws that relate to: Protection of animals and plants, pollutions, marine life, waste management, agricultural affairs and conservation of natural resources.

Globalization: the growing inter-connectedness of companies, nations and individuals caused by the decrease of relative distance

NGO: non-governmental organisation

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Corporate Social Responsibility: CSR is a corporation's initiative to assess and take responsibility for the company's effects on environmental and social wellbeing.

Environmental accountability: being held responsible for the destruction of the natural environment

General Overview

When MNCs open factories or other facilities in countries that are not their own, they are obliged to obey the laws of their home nations as well as those of they country in which they are operating. Some MNCs try to find 'loopholes' when setting up in a host country, as happens in China for example. The issue at hand links with the fact that MNCs are not accepting legal responsibility for global environmental damage by disclosing their environmental information with high quality standards especially in the case of greenhouse gas emissions

50% of the earth's current carbon dioxide emissions have been produced in the past 25 years and correlates with the rapid success of multinational corporations, which together produced nearly two-thirds of the greenhouse gas emissions generated since the dawning of the industrial era. High greenhouse gas emissions result in the increased global warming and climate change as well as the rise of sea levels and the melting of icebergs in arctic and antarctic areas of the earth. Moreover, some MNCs require a lot of wood for different purposes which results in the cutting down of trees, impacting the Earth's oxygen supply and further adding to the greenhouse gas emission. What MNCs are mostly held environmentally accountable for is the dumping of toxic materials and waste into the Earth's waters causing the deaths of aquatic sea creatures, which disturbs food chains and causes species to become endangered. It also affects marine wildlife such as plants and other organisms. Being a MNC often requires high levels of industrial trade meaning the constant importing and exporting of products between nations in order to obtain high profit revenues; this includes importing and exporting by large ships which could cause oil spills in the oceans again affecting not only aquatic creatures but also human health because a lot of the water that people drink will be contaminated and possibly intoxicated due to this.

Major Parties Involved

China

Many MNCs in China do not respect the laws and regulations of environmental law, nor do they commit to high levels of environmental protection amongst themselves. Instead they obtain good relations with local suppliers which are constantly competing with each other by reducing prices and negotiating to fight for contracts with MNCs. Due to low respect for environmental legislation in the Chinese government, it is near to impossible for companies to sue one another in account of an environmental violation and that is why China has one of the highest number of multinational corporations responsible for environmental damage.

Bangladesh

Recently, Bangladesh has been experiencing economic growth due to industrial activities, and yet in that process its natural environment has been degraded and become more vulnerable in geophysical terms such as having a high amount of pollution in the country. Bangladesh is famous for having one of the highest numbers of factories in the world, which is a cause of holding corporations to account for their environmental responsibilities.

Nigeria

MNCs in the Niger Delta region of Nigeria have been causing oil spills, leaks and dumping waste for the past four or more decades. This caused land to be damaged. about 2,300 cubic meters of oil are estimated to be spilled in 300 separate incidents every year. In 1998 there was an Oil Spill Intelligence Report documents the largest Nigerian spill contained 200,000 barrels of oil to be spilled in Nigerian waters by corporations in the region without compensation to make up for it.

World Trade Organization

WTO is the only global international organization dealing with the rules of trade between nations. At its heart are the WTO agreements, negotiated and signed by the bulk of the world's trading nations and ratified in their parliaments. The organisation`s aim is to aid producers of goods and services, exporters, and importers conduct their business.

Timeline of Events

November 13th 1972	The Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter was created in London. It currently has 87 parties. It was an agreement to control water pollution by dumping toxic materials and to encourage regional agreements supplementary to the Convention. The agreement includes the purposeful dumping of waste materials or other substances from vessels, aircraft, and platforms but not from land-based sources such as pipes and outfalls.

1990	The environmental protection act was created to merge air and water pollution control by local authorities and prevent land waste from any party in a nation including multinational corporations.
1992	The United Nations framework convention on climate change (UNFCCC) took place. It recognized intergovernmental efforts to tackle the fast occurring issue of climate change which is a result of industrial activities including the emission of greenhouse gases.
February 11th 2013	The United Nations declared 2013 as the International Year of Water Cooperation in light of growing pressures on water resources and an increased need for cooperation and declared that march 22nd would be world water day due to water that is being wasted as well as water that is being contaminated by toxic substances as a result of MNCs getting rid of their waste.
2013	The International Law Commission included ' protection of atmosphere' in its frame of work to outline the liability of different states occluding corporations

Previous Attempts to solve the issue

- The UN global compact was set up with the overall aim to encourage corporations to adopt sustainable and socially responsible policies. It is composed of ten main principles in relation to human rights, labour, the environment and anti-corruption. Under the Global Compact, companies are

brought together with UN agencies, labour groups and civil society. Principles 7-9 state that businesses should:
"Support a precautionary approach to environmental challenges;
Undertake initiatives to promote environmental responsibility;
Encourage the development and diffusion of environmentally friendly technologies."
However, no sanctions have been placed to any members who defy these laws and it has been proven that indeed many corporations have ignored the terms and principles of the UN global compact.

- In association with the NGO institute of public and environmental affairs lead by Ma Jun, the Chinese government punished 33 MNCs for China's environmental laws and regulations. As a consequence, China updated their 1981 Environment Protection Law on January 1st 2015 to recognize the environmental damage inflicted by MNCs and other industrial activities.

- Principles 2 and 21 of the of the 1972 Rio Declaration which came out of the 1992 Earth Summit reassure that countries have "the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction." Under this principle, countries are prohibited from undertaking or allowing actions that will cause pollution in other nations.

Possible Solutions

- A treaty should be set up for all member states to sign an agreement to limit energy consumption and the burning of fossil fuels, which releases toxic gases into the atmosphere. To reduce environmental damage catalytic converter should be placed in each MNCs factory to make sure that reactions take place quicker without having to add energy or extra resources. t should be made illegal for any company or corporation to dump waste which may contain waste materials toxic to wildlife in oceans, seas rivers or landfills and sanctions should be applied for any MNC which defies this as a criminal act. The United Nations could send representatives to the top multinational corporations whom are currently damaging the environment for a set period In order to monitor the MNC`s activities.

- Environmental damage committed and inflicted by specific MNCs should be publically recognized and corporations should be made to take legal responsibility by paying the United Nations the fine or fees required to cover what they have destroyed in order for them to try and restore the damage by planting trees or utilizing expensive machinery to rid oceans of toxic materials.
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- Campaigns should be set up by environmental protection groups or other organisations including governments in each nation to promote using renewable resources such as solar power, hydroelectric power, wind power, tidal power, or wave power to obtain energy for manufacturing products. That way, MNCs are reducing greenhouse gas emissions and decreasing the chances of global warming and climate change thus contributing to an eco earth.

Useful documents

- http://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1302&context=njilb
- http://carnegietsinghua.org/publications/?fa=51766
- https://www.wto.org/english/tratop_e/envir_e/climate_challenge_e.htm
- http://www.mofo.com/~/media/Files/ClientAlert/2014/09/140930ChinasNewEnvironmentalProtectionLaw.pdf?utm_source=Mondaq&utm_medium=syndication&utm_campaign=View-Original
- http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1025&context=auilr
- http://www.globalissues.org/article/55/corporations-and-the-environment
- http://www.globalissues.org/article/86/nigeria-and-oil

Appendix/Appendices

- http://www.un.org/apps/news/story.asp?NewsID=3677&Cr=sustainable&Cr1=development#.VieNe84xF-U
- http://www.investopedia.com/terms/m/multinationalcorporation.asp
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- http://exchanges.warwick.ac.uk/index.php/exchanges/article/view/26/100
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- http://www.pollutionissues.com/Ho-Li/Laws-and-Regulations-International.html
- http://www.enterpriseethics.org/portals/0/pdfs/good_business_chapter_13.pdf
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