

Multinationals in a Changing Environment: a Study of Business-Government Relations in the Third World, by Adeoye A. Akinsanya

Patrizio Merciai

Follow this and additional works at: <http://digitalcommons.law.umaryland.edu/mjil>



Part of the [International Law Commons](#)

Recommended Citation

Patrizio Merciai, *Multinationals in a Changing Environment: a Study of Business-Government Relations in the Third World*, by Adeoye A. Akinsanya, 9 Md. J. Int'l L. 319 (1985).

Available at: <http://digitalcommons.law.umaryland.edu/mjil/vol9/iss2/29>

This Article is brought to you for free and open access by DigitalCommons@UM Carey Law. It has been accepted for inclusion in Maryland Journal of International Law by an authorized administrator of DigitalCommons@UM Carey Law. For more information, please contact smccarty@law.umaryland.edu.

MULTINATIONALS IN A CHANGING ENVIRONMENT: A STUDY OF BUSINESS-GOVERNMENT RELATIONS IN THE THIRD WORLD.
By Adeoye A. Akinsanya. New York, N.Y.: Praeger, 1984, 336 pp., \$34.95.

The control of multinational corporations' activities is a key issue in international economic law, and it has been discussed by many scholarly studies, some of them already classic. But it is also rapidly evolving, keeping pace with the changing world economy, as attested to by the internationalization of service industries like banking, insurance, auditing, leisure, etc.; the rise of multinationals from the Third World and from socialist countries; the emergence of new problems and demands for controls, notably in safety and health, environmental issues and consumer protection, to name a few.

Therefore, international lawyers concerned with multinational business activities should welcome not only new contributions to the field of international economic law, but also economic or political studies that could help them define and assess the new issues at stake. *Multinationals in a Changing Environment*, written by Adeoye A. Akinsanya, a well-known Nigerian professor and specialist in international economic relations, attempts such a study.

Unfortunately, the title and subtitle of this book are misleading. The book is mainly a study of international relations, and specifically of political measures and countermeasures with respect to the nationalization of foreign property. The reader can find, for instance, a detailed account of many cases of political support by home governments to business interests in host developing countries, as well as reactions by the latter, including several covert operations attributed to the United States Central Intelligence Agency. Although the title suggests that the scope of this book is wide, the author has clearly given primary attention to nationalization disputes.

Another problem with the book is its organization. For those laymen wanting to refer to this book for background information, the presentation of the various aspects of multinational activities, although detailed and well-documented, does not seem to follow a clear pattern, since the discussion of many issues is spread over several chapters. This is the case not only of expropriation in general, which is in fact the main subject matter of the book, but of several case studies as well, such as business reaction to events in Cuba and in Chile. In addition, most of the topics are presented not in an analytical form but almost as a narrative, which is not the most suitable for reference.

Another shortcoming of this book is its attempt to dispense with international law questions, although the core of its discussion is in fact a legal

issue, namely expropriation. Professor Akinsanya declares that his study will not address "the legality or otherwise of expropriation of multinational assets or for that matter whether the law of state responsibility for injury of aliens is or should be a universal principle of international law. This subject is best handled by international lawyers, although various studies do show that this is an aspect of international law on which opinions are sharply divergent." (p. 44) But then, in a preceding section entitled "The Sovereign Right to Expropriate Private Foreign Investment and the Obligation to Pay Compensation" (p. 35), the author seems to share the views of those countries that advocate several qualifications to the non-discrimination principle and reject the very existence of an international law rule on the extent and modalities of compensation.

To support his reasoning, Professor Akinsanya quotes the relevant provisions of the Charter of Economic Rights and Duties of States,¹ including article 2, § 1, which purports to establish the permanent sovereignty of the State over all "economic activities," and article 2, § 2 (c), which fails to mention obligations under customary international law with respect to expropriation. (p. 87) The author points out that General Assembly resolutions may become customary law, quoting a classic excerpt from Ian Brownlie's *Principles of Public International Law*.² He fails, however, to mention the highly controversial nature of this particular resolution, namely, that it does not reflect any general *opinio juris*; that it was adopted by a majority vote, with nonetheless almost every major capital-exporting State abstaining or opposing; and that, once adopted, its provisions have never been implemented in subsequent practice when investor countries were concerned. It is not this reviewer's intention to question the substance of the author's opinions, but since they clearly rest on international legal considerations, these legal issues should not be overlooked.

There are other cogent issues that the author might have addressed to support his views. Quite surprisingly, he did not do so. For instance, corrective measures and regulation were given only passing mention in the sections on employment, consumption patterns and technology, although these include well developed and interesting discussions. There are only a few discussions of national legislation and almost none of codes of conduct and other international efforts. Neither the revision of the Paris Convention on Industrial Property³ nor the World Health Organization (WHO) Interna-

1. G. A. Res. 3281 (xxix), 29 U.N. GAOR Supp. (No. 31) at 50, U.N. Doc A/9631 (1974).

2. I. BROWNIE, *PRINCIPLES OF PUBLIC INTERNATIONAL LAW* 4 (3d ed. 1979).

3. Paris Convention for the Protection of Industrial Property, *opened for signature* Mar. 20, 1883, 828 U.N.T.S. 305 (revised 1967).

tional Code of Marketing of Breast-Milk Substitutes⁴ is mentioned, with respect to the problem of unused patents (p. 189), and the advertising of industrial baby foods (pp. 148-50), although both are major North-South issues. Even more surprisingly, the elaboration of the two instruments that have catalyzed the discussion of almost every aspect of multinational activities for more than a decade, the UN Code of Conduct on Transnational Corporations⁵ and the United Nations Conference on Trade and Development (UNCTAD) International Code of Conduct on the Transfer of Technology,⁶ do not seem to be noted anywhere, even though the 1972 speech by Salvador Allende before the UN General Assembly, which provided the original impulsion for both negotiations, is quoted extensively. (p. 216)

With the proviso that it is mainly a study of political issues arising from the expropriation of investment in the Third World, Professor Akinanya's book is certainly noteworthy and highly recommendable as a learned and detailed piece of work. It provides a wealth of information, especially on matters related to the traditional vision of multinationals as predominantly American corporations involved in the natural resources, utilities and heavy equipment sectors of developing countries. But, taking the quasi-absence of discussion of legal instruments into account, one should not expect every aspect of business-government relations to be reviewed.

*Patrizio Merciai**

4. World Health Assembly Res. WHA34.22 (May 21, 1981), WHO Doc. WHA34/1981/REC/1 (1981) at 21, 64, reprinted in INT'L CODE OF MKTG. BREAST-MILK SUBSTITUTES (WHO Pub. 1981) at 9.

5. Draft United Nations Code of Conduct on Transnational Corporations, 1983 U.N. ESCOR Supp. (No. 7) at 12, E/C.10/1983/S/5/Rev. 1 (1983).

6. Draft International Code of Conduct on the Transfer of Technology, U.N. Doc. TD/CODE TOT/47 (1985).

* Lecturer, Graduate Institute of European Studies, University of Geneva.

