

Growing industrialization and our damaged planet The extraterritorial application of developed countries' domestic environmental laws to transnational corporations abroad

Tetsuya Morimoto LLM, Attorney admitted in Japan and the State of New York, US; Associate, Harumi Sogo Law Offices (Tokyo)

Abstract

There is serious concern over environmental devastation caused by commercial activities worldwide. Transnational corporations (TNCs) have substantially contributed to such devastation through their 'double standards' practice. TNCs have been conducting their operations in developing host countries in accordance with much lower environmental standards than those adopted in their home countries or in developed host countries. Considering the seriousness of environmental destruction and the social responsibility of TNCs, it is argued that TNCs should be subject to the same stringent environmental standards in developing host countries as well. Recently, foresighted TNCs have voluntarily adopted uniform stringent environmental standards; however, it seems unlikely that the majority of TNCs will follow suit. The international harmonization of environmental standards also appears unlikely due to irreconcilable national interests. Given the economic dependence on TNCs and the lack of enforcement mechanisms, developing countries do not seem to be able to regulate TNCs effectively. The only remaining possible solution seems to be the extraterritorial application of the environmental rules of the TNCs' home countries. Although controversial, this approach would be viable if the rules in question would not directly apply to foreign affiliates of TNCs and if it were implemented through multilateral action by the OECD member states.

Keywords

environmental destruction, transnational corporations, extraterritorial application, concerted legislation

[full text](#) [back](#)

ISSN 1871-515X