

secrets, the assassination plots, have been leaked. Through the process of disclosure and investigation by Congress the public has formed an opinion of what is reasonable or justifiable in our secret operations. This opinion tends to be increasingly severe with the executive; moves which brought little comment in the early 1950s, such as those against Arbenz and Mossadegh, would cause outrage today.

The key to a responsible, moral and effective policy for covert action lies in the policymakers' acceptance of a set of guidelines like the one outlined above, not only because it would constrain us to do what is justifiable, but also because it would lead to prudent and productive use of our covert capabilities. Excesses would be avoided and we would rely on our strengths. George Kennan understood this well when he wrote: "We should conduct ourselves at all times in such a way as to satisfy our own ideas of morality. But let us do this as a matter of obligation to ourselves and not as a matter of obligation to others." Unfortunately, however, practitioners of covert action have more often taken the attitude of Nathan Hale, who said: "I wish to be useful, and every kind of service necessary to the public good becomes honorable by being necessary."

The sentiment is patriotic and heroic but it has led to extremes. We as a nation have found ourselves in the paradoxical position Niebuhr described as "the fanatic protagonism of our non-fanatic culture." We will free ourselves from this failing when we shape our covert actions policy to the constraints which arise from the Constitution, our American ideals and our humanitarian principles. If we do so, covert action will be a just and useful tool to achieve our diplomatic goals and forward our national interest in the world.

Ethical Challenges to the Multinational

LEWIS HOFFACKER

In recent years there has been a noticeable diminution in criticism of the multinational corporation (MNC). Why this positive trend?

For one thing, contentions by authors like Richard Barnet and Ronald Muller in *Global Reach*, to the effect that the MNCs have the

ability and the intention to subvert most nations, have not stood up under careful scrutiny.

Most importantly, less-developed countries (LDCs) have found — often after

The Honorable Lewis Hoffacker is currently a Consultant in International Affairs to the Shell Oil Company, Houston, Texas. He is former U.S. Ambassador to Cameroon, a career Foreign Service Officer (retired) and a graduate of the Fletcher School of Law and Diplomacy, Class of 1949.

costly experience — that there is no substitute for the right kind of MNC in their development process. The Andean Pact nations, to mention one group, have come to appreciate this reality and are now providing incentives to foreign investors as opposed to the disincentives of not many years ago. For one thing, even with the best will in the world, the governments of the developed world are unlikely to be able to furnish the vast quantity of capital and technology needed by LDCs. Developing governments have, moreover, become more sophisticated in their dealings with multinationals, and scrutinize credentials and contracts more carefully so as to avoid the pitfalls which Barnett and Muller have outlined.

Governments, as well as publics, have been deeply shocked by cases such as the Lockheed scandal. In the aftermath of these revelations, the U.S. government tightened its regulation of multinationals and adopted the Foreign Corrupt Practices Act, which imposes criminal penalties on American businessmen who bribe foreign officials. At the United Nations, the U.S. is attempting to effect multilateral action along the same lines. Other initiatives have been taken at the United Nations to try to find multilateral agreements on regulating the behavior of MNCs. So far, however, there has been no meeting of minds between those LDCs which seek to impose obligations almost exclusively on the MNCs, and western industrialized countries which believe that there should be a balance between the obligations of governments and of MNCs.

The International Chamber of Commerce (ICC) has devised various forms of self-regulation in an effort to help set the multinationals' house in order and thereby discourage hasty or ill-conceived mandatory sanctions. For example, the ICC has adopted a set of principles designed to cope with extortion and bribery as well as a panel to oversee the implementation of these principles.

The Organization of Economic Cooperation and Development (OECD), representing the twenty-three most industrialized countries, has agreed upon a declaration and guidelines which cover much of the activity of the typical MNC. Specified in those guidelines is the requirement that enterprises not render — and that they not be solicited or expected to render — any bribe or other improper benefit, direct or indirect, to any public servant or holder of public office. Enterprises are also prohibited from making contributions to candidates for public office or to political parties or other political organizations unless such practices are permissible under the law of the land. Although these guidelines are voluntary, they have had a salutary effect in that they have set international standards by which MNCs can be measured. Moreover, they represent the common position of twenty-three governments which use these criteria as a basis for negotiating in the UN and other fora.

But multinationals have not been sitting idly by as governments, trade unions, academics and others decide their fate. The wise firm appreciates that it has no option but to conform to modern expectations of ethical correctness.

Given the heightened public and official sensitivity to corporate misconduct, a multinational is grossly mistaken if it believes it can get away with mischief.

Typical of this contemporary attitude is the concept of "corporate social responsibility," which acknowledges that the public and government expect that corporations will consider with special care how their decisions affect people and their interests. Corporations realize that they must perform to the satisfaction of people and their government representatives or face radical changes in the private enterprise pattern. Even if there were not this implicit threat, most responsible businessmen accept ethical corporate social performance as a sound business practice in their own self-interest.

The realistic multinational believes that adherence to legal obligations and ethical behavior in every respect of its performance has an overriding effect on the corporate well-being and reputation. Accordingly, senior management should instruct its subordinates to conduct their business in the forefront of ethical business practices, even if these are not fully codified and are subject to changing social values and public attitudes. Law in our society proscribes socially intolerable conduct and prescribes the minimum obligation that is legally required. Law does not, however, prescribe what society regards as desirable conduct by individuals or corporations. As a result, business problems occur when what is legally permitted becomes unacceptable in terms of changing public attitudes. Consequently, if a manager regards what is legal as acceptable, his actions may be regarded as unethical. Hence, the company should oblige its employees to measure their actions by two yardsticks — the law and evolving social expectations.

An American MNC carries its code of conduct abroad even though the foreign environment condones practices which would be unacceptable in the U.S. But "when in Rome do as the Romans do" is not always a wise maxim for a firm doing business overseas. Corporate executives must leave no doubt regarding the consistency of their conduct worldwide by specifying that the company requires in its foreign activities, just as in its domestic operations, absolute candor and strict compliance with corporate accounting methods and controls, as well as complete cooperation with internal and external auditors.

This strictness is often greeted with surprise in some host countries where various forms of corruption have been the traditional pattern. Refusal to bribe can lead in some instances to a loss of business to less scrupulous competitors. So be it. A "square" company will gain a reputation for honesty which will serve it well in the longer run. The right-thinking company has learned long ago that honesty is the only policy that makes sense. Since most U.S.-based multinationals appreciate this logic, the focus rightly belongs elsewhere. Regrettably, extortion is a pattern in all too many countries, including many of the poorest ones. And governments, particularly in developing countries, are frequently involved. It is clear, therefore, that imposing requirements on