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STATE REGULATION OF ACTIVITIES OF TRANSNATIONAL CORPORATIONS IN THE ENVIRONMENTAL FIELD

The article is devoted to analysis of the state regulation of the activities of transnational corporations in the environmental field. The main documents that define and regulate the environmental activities and environmental control in Ukraine have been analyzed in this article. There have been specified direct and indirect measures of environmental regulation of TNCs.

Key words: *transnational corporations, government regulation of TNC in the environmental field, the direct and indirect measures of environmental regulation, environmental management.*

Topicality. The current stage of development of global economy is characterized by the increase in production and consumption of various goods, which results in the increase in excavation and pumping of natural resources, which lead to pollution of environment. One of the reasons for this conflict is globalization, which act as the main form of transnational corporations (TNCs). Decisive matter here is to overcome the methods of the types of production, which are devastating for the environment, to transit to resource- and energy-saving technologies, as well as to form environmentally acceptable postindustrial production with a new system of values.

It is relatively easy for transnational corporations to reallocate their resources and facilities to the regions providing more favorable economic and political conditions for TNCs. Such opportunities often enhance socioeconomic and ecological imbalances between certain countries. Moreover, to perform their activities, TNCs actively benefit from the differences in the laws of developed countries and countries with less severe legal ecological regime.

Taking into account the scope of international production cooperation with the participation of TNCs, as well as a lot of enterprises cooperating with TNCs under various contracts and agreements, we may assume that developing common standards of environmental and social behavior, adopting a common policy in this field at the supranational, intergovernmental and national levels will greatly facilitate the recognition and implementation of environmental responsibility of transnational corporations and their affiliates.

Analysis of the latest research and publications. The problems of relations of production and the environment aimed at achieving sustainable development have always been equally worried both Ukrainian and foreign researchers. The research results of environmental regulation of TNCs can also be found in the works of R.Vernon [1], H.V. Perlmutter [2], B. Kommoner [3], D. Markovich [4], D. Medouz [5], A. Pechchei [6], O.I. Rogach [7], V.V. Rokocha [8] and others.

Despite the fact that research on the regulation of activities of transnational corporations in the environmental field have become quite widespread, we believe that insufficient attention is paid to various levels of regulation of activities of TNCs in the environmental field of modern economics.

The purpose and objectives. The purpose of the article is to analyze the government regulation of transnational corporations in the environmental field and make proposal for improving national practice eco-social responsibility of TNCs.

The main part. Government regulation of TNCs in the environmental field is a set of legislative, executive and supervisory measures designed to reduce and prevent the negative impact of economic

activities on the environment and on its rehabilitation. Typically, this set of measures is the same both for national and multinational companies.

The need for governmental intervention in the processes of using natural resources and the environment is caused by the so-called market failure - the emergence of negative externalities in a market system. In every certain period of time the market can only show how much society is ready to pay for environmental adjustment without sacrificing its economic interests. At the same time, if we take into account the economic and environmental interests of the generations to come, this approach is unacceptable.

The principle of "socialization of nature" has become widely, though not definitively recognized in this regard. According to this principle nature is the same public good, as environmental protection. As a rule, public goods are provided by the state and paid for through compulsory taxation, as there is no any pricing for them. Therefore it is widely believed that producing public goods is not profitable for private companies. The exception, which is though increasingly common, is "corporate social responsibility", including charity.

State regulation of TNCs' activities in the environmental field acts at the national, regional and local levels. It is carried out by taking direct (administrative and legal) and indirect (mainly economic) measures.

Direct measures of state environmental regulation means primarily national, regional and local environmental laws which include a number of restrictive (for example, a ban on the import of ecologically hazardous goods into the country) or minimal (eg quotas for capture of certain types of fish) norm . The activities that impact the environment must pass state licensing procedures, the procedures of standardization and certification, as well as state environmental review. In some cases they are required to obtain compulsory insurance. Violations of environmental legislation entail administrative (revocation of license, etc.) and criminal liability.

The purpose of taking indirect measures of state environmental regulation is to impartially reflect environmental costs in the prices of commodities, as in this case many environmental problems can be solved through market mechanisms, primarily through multinational corporations. In particular, in order to achieve the impartial pricing, neoclassical economic theory proposes to introduce the so-called "Pigovian tax", which is levied on a company that creates external effects. In addition, the amount of "Pigovian tax" should be so high that after the payment of this tax the private costs of the company that creates an external effect would be equal to the social costs (the costs which are of the highest value which can bring the factors of production in their alternative use) [9] .

The guidelines of English economist A. Pigou are applied widely in practice, but their use do not always bring absolutely positive results. The problem is that often it seems impossible to calculate the amount of all the costs that are borne by society as a result of externalities. Varieties of "Pigovian tax" are environmental fines and mandatory payments that are also imposed by the state. Another way of transformation of externalities in internal effects is to issue paid permits for limited scope of the negative impact on the environment. For example, the Kyoto Protocol on the regulation of greenhouse gas emissions provides for quotas for emissions for each participating country within the strictly defined total volume ("principle of dome"). In order to be eligible for increase in emissions, the country is to buy a part of the quota from the party under the contract, which has not used its part in full [10].

Indirect measures of state regulation of economic activities in the environmental field also include the following: environmental tax allowance; state subsidies for eco-efficient activities, state investment; state orders; providing government loans for environmental projects; state environmental insurance;

government regulation of pricing on some products and services, including those produced by natural monopolies, and others. It should be noted that in some cases the states use environmental standards and norms not only for environmental purposes, but also for reasons of protectionism and ensuring monopoly in a particular market. For example, in 1994 when choosing the route of the oil pipeline from Baku with access to the Mediterranean Sea in order to export the Caspian oil, Turkey firmly rejected the Russia's proposal on building the pipeline to Novorossiysk via a shorter and cheaper route through the Russian territory. As a result it was decided to choose the route "Baku - Ceyhan" which passed through Turkey, providing this country with large profits for oil delivery and giving it greater political weight. This alternative route bypassing Russia was actively supported by the United States. Construction of the pipelines was carried out by an international consortium led by the transnational company "BP", and contract work was performed mainly by American and British companies [11]. Despite all the benefits of this kind of "real politics" this alternative is proved to be unfavorable for Turkey from an environmental point of view: to exploit the oil pipeline which runs through mountainous area is risky in terms of accidents. These risks are also increased by the threat of terrorist attacks in this region. Moreover, the route "Baku - Ceyhan" passed through the Borjomi Gorge in Georgia, jeopardizing the welfare of unique natural and economic object (mineral water "Borjomi" is one of the most recognizable exported goods of Georgia) [12].

The main watchdog for environmental protection in Ukraine is the Ministry of Ecology and Natural Resources of Ukraine. This is a central executive body which is coordinated by the Cabinet of Ministers of Ukraine [13]. The main document that defines and regulates environmental protection and environmental control is the Law of Ukraine "On Environmental Protection" dated June 25, 1991, which provides for guidelines and mechanisms to ensure effective environmental management, environmental protection and security. [14] However, besides that the legislation of Ukraine also includes a lot of provisions of various laws and regulations such as the Law of Ukraine "On Air Protection" dated 16 October 1992; the Law of Ukraine "On Nature Reserve Fund of Ukraine" dated 16 June 1992 ; the Law of Ukraine "On Wildlife" on March 3, 1993; the Law of Ukraine "On Environmental Expertise" of February 9, 1995 ; The Law of Ukraine "On Nuclear Energy Use and Radiation Safety" of February 8, 1995 ; the Law of Ukraine "On Environmental Emergency Zone" of 13 June 2001; the Law of Ukraine "On the State Program for the Development of the National Ecological Network of Ukraine for 2000-2015" dated September 21, 2000 and others. Protection and use of certain natural resources are governed by the appropriate codes. Thus, protection and use of lands are regulated by the Land Code of Ukraine (1992), protection and use of mineral resources are regulated by the Code for Mineral Resources of Ukraine (1994), protection and use of waters are regulated by the Water Code (1995), and protection and use of forests are regulated by the Forest Code of Ukraine (1994).

In general, the Ukrainian environmental legislation is characterized by gaps and contradictions. Admittedly, even the Government of Ukraine understands that direct and indirect measures environmental regulation measures are ineffective. Government (local, national and supranational) authorities create "the rules of the ecological game" for the representatives of business, but even a simple statistical analysis shows that environmental functions are performed primarily by transnational corporations and their subsidiaries, which play by these rules. Today almost all the major companies are involved in planning of their impact on the environment, developing their own environmental policy and environmental management systems. This approach is reflected in the documentation of the companies. Many TNCs develop policy documents on environmental policy and environmental management, as well as publish annual reports on the environmental aspects of their activities. Global Reporting Initiative has become greatly important in this regard. To prevent large-scale environmental impact, including accidents, the companies are under environmental audit and insure against environmental risks on a voluntary basis. It is natural that business associations, including the international business associations, have been paying much attention to environmental aspects of the companies' activities. Thus, in 1991 the World Chamber

of Commerce codified its recommendations that carry weight in the business community and are known as "Business Charter for Sustainable Development". This document designed to help entrepreneurs was taken into account and integrated into the policy documents by thousands of companies, including a lot of large TNCs of the world, for example, engineering and technical company "ABB" and the Unilever company, the world leader in food production. The Charter establishes the paramount importance of environmental issues in the management of TNCs. Thus a thing of a special interest aimed at achieving this purpose, is a paragraph of the "Charter", which stipulates that the company intends "to constantly improve corporate policies, programs of environmental performance, taking into account advances in science and technology, the needs and interests of society, as well as to operate within the existing legal framework and use the same environmental criteria in their activities abroad". [15]

In addition to the above-mentioned activities of national, international and intercompany regulation of the companies' activities in the environmental field, one should highlight the TNC standards applicable to environmental management systems. According to the guidelines developed by corporations and international organizations the environmental management system shall be understood as a component of the system of management and business strategy of a company in all aspects of its activities related to the impact on the environment and improvement of the environmental performance of the company. [16]

In 1996 the world saw the adoption of the standard ISO 14000 by the International Organization for Standardization. Officially this standard is voluntary. It does not replace legal requirements, but only sets benchmarks. This standard allows TNCs to demonstrate the compliance of the environmental management system with the current requirements to creditors, customers and the public. Therefore, the TNCs seek to obtain the appropriate independent certification. ISO 14000 remains to be of global importance for organizations wishing to work in an ecologically sustainable environment. On January 1, 2014 285844 certificates was issued in 167 countries. This is nine times as much as on January 1, 2013. The number of certificates issued rose by 9% (+ 23 887). China, Japan and Italy entered the top three among the total number of certificates issued. [16]

An indicator of the compliance of production with high environmental standards are eco-labeling which is also governed by the series of ISO 14000. This labeling sends an additional signal to the market, thus, facilitating the competitiveness of goods. However, it should be noted that due to insufficient awareness of consumers about eco-labeling TNCs sometimes manipulate the opinion of consumers, for example, through active use of green color when designing a package or manufacturing a product itself.

In 2004 the International Organization for Standardization ISO reviewed the standards of the series ISO 14000. As a result, in 2006 Ukraine saw the implementation of the following national standards: DSTU (State Standards of Ukraine) ISO 14001: 2006 of Environmental management system and DSTU (State Standards of Ukraine) ISO 14004: 2006 of Environmental management system. Almost all the major TNCs which expand into foreign markets have been certified with ISO 14000 in the late 1990s till the early 2000s.

The need for certification of companies according to environmental standards and obtaining reliable information on the environmental attributes of enterprises' activities resulted in the establishment of such institution as environmental audit. Its role and objectives are generally similar to financial auditing of companies. Environment audit is an expensive measure, which costs a TNC and its numerous subsidiaries millions of dollars. However, leading transnational corporations develop and support periodic audits of environmental management systems to more effectively cooperate with regulating agencies, lenders, investors and other stakeholders. Notably, the market incentives and intercompany regulation in the environmental field in Western Europe, the US and Japan made not only governments and international organizations, but also the companies promote the development of environmental audit.

Conclusions. Solving the whole range of environmental problems and implementing new "stable" production and consumption layouts are possible only subject to creative combination of market and administrative-legal mechanisms of regulation in the environmental field. The role of environmental factor in the activities of transnational corporations increased significantly in 2010-2015 and will continue to increase. Therefore, the state policy on environmental regulation of TNCs should include the eco-social responsibility of transnational corporations in the documents regulating investment activity in Ukraine. In addition, it is necessary to establish the conditions of exemption for taxation and credit financing of corporations which meet the contemporary environmental standards, as well as to provide informational support for transnational corporations in holding their public eco-social charitable activities.