

02107

LABOUR RESEARCH SERVICE

REPORT ON THE
COSATU NATIONAL WORKSHOP
ON THE CODE OF CONDUCT FOR INVESTORS
IN A POST-APARTHEID SOUTH AFRICA

Johannesburg Saturday 7 November 1992

AGENDA

1. Presentation of the COSATU Code of Conduct
2. What are the aims and intentions of the Code? (Discussion)
3. Monitoring and Implementation (Presentation on past experiences of monitoring, discussion, conclusions)
4. Comments and criticisms of the COSATU Code:
 - the ANC's position on codes from their conference (they fear a code will scare off investors)
 - the view of US solidarity organisations on the need for one code: the code won't work as COSATU's alone, it has to be supported by ANC at least, and ideally NACTU and the churches as well.
 - problems with the wording of some clauses and the title
5. General problems:
 - the ICFTU code (US & European unions drafted this code)
 - how should COSATU's international position on the code be co-ordinated
 - what are the steps towards lifting sanctions
6. Formulation of a common position with the ANC DEP for the US solidarity meeting

[Discussion on item 5 was postponed as it requires the participation of the COSATU International officer.]

Attendance

CWIU, FAWU, NUM, SARWHU, PPWAWU, Cde Chris Dhlamini (Chair), Cde Jayendra Nandoo (COSATU), Cde John Lamola (SACC)

Purpose

The purpose of the meeting was to consider how the code of conduct issue could be taken forward in the context of the November solidarity conference called by the ANC in New York, the existence of several different codes and criticisms made of the COSATU code.

These notes outline points that will be useful for the presentation of Cosatu's position at the New York meeting. They are not comprehensive minutes.

The Aims of the COSATU Code

A code of conduct for foreign investors is one way of helping to crush Apartheid practically. It is not presented as an obstacle to foreign investment, but as a guide to promote investment that also works to redress the terrible legacy of Apartheid.

1. There should be no "open door" for foreign exploitation when sanctions are lifted
2. The code should influence company policy towards the goals of a democratic society and economy
3. The code can be used to build on the strength of the international solidarity movement. It will provide a new platform for international solidarity and co-operation - to promote economic justice in SA, rather than to promote sanctions
4. The code will provide a campaign area for unions inside South Africa. They will encourage foreign firms (and eventually local firms), to comply with the code
5. The code of conduct is not an investment code. [That is properly part of government policy and state laws - many aspects of the code of conduct will, hopefully, find their way into the legislative programme of a democratic government]
6. The code is a vehicle for ethical checks on business conduct.

Problems with the COSATU code

1. THE TITLE: Many groups have questioned why the Cosatu code focuses on multinational companies only. The workshop agreed that, like the ICFTU code, the Cosatu code does not aim to introduce or maintain inequalities of treatment between foreign firms and local firms. It is simply that the international solidarity movement is only capable of exerting direct influence on foreign firms. Part of the aim of the code is to allow our allies overseas to use the organisational power they built up during the sanctions campaign for a new form of solidarity action - to re-build a democratic economy in South Africa.

Conclusion: the focus on MNC's at this point in time is correct and useful.

2. WORDING: Several problems with the wording of the code have been highlighted. The preamble includes an inappropriate reference to 'racial groups'; affirmative action is wrongly placed - it may merit a separate paragraph; companies must agree to no dumping of toxic waste; some sections are very vague and need to be made specific ... and there are other minor points on top of these.

Conclusion: the wording problems would be best tackled by a complete re-working of the code with other key players - rather than by ad hoc amendments to the Cosatu code. The main principles in the Cosatu code are, however, sound.

3. CONTENT: The major problem with the content comes in the section which says that wages and conditions should not be worse than those in the company's country of origin. There are problems with calculating exactly what this means because of exchange rates. Companies based in Mauritius or Korea may have worse conditions than SA. A requirement that wages for executives are as high as in Japan or Switzerland may make an operation uncompetitive internationally.

Conclusion: a compromise wording, that allows for real comparisons might be the following: "Conditions of work and life offered by companies shall compare favourably with the best conditions in the relevant sector domestically".

4. MONITORING AND IMPLEMENTATION: The Cosatu code makes no mention of monitoring. This is a major weakness. A code has to be monitored, or it becomes a meaningless gesture. The monitoring of other codes of conduct was considered. Some rely on companies paying money to the monitoring agency - perhaps the unions or the government could contribute to monitoring costs so that these costs are not a factor in investment decisions. Other codes have all been drafted, administered and monitored from outside SA - unions and communities need to be involved and the process needs to be based in SA. Several detailed proposals were discussed critically and it was agreed that more research is needed on the monitoring issue. The monitoring body must not be toothless, it must not grow into a huge bureaucracy and the process of implementation should empower workers.

Conclusion: Monitoring and implementation must pay close attention to two aspects:

- a) the need for campaigns that involve workers and communities to be used both in monitoring and in promoting compliance with the code,
- b) the need for an independent, credible institution to oversee the monitoring of the code.

An approach to taking the Code of Conduct further

The major problem at present is the lack of a single, agreed code of conduct.

The Cosatu code was extremely useful in getting the process started, but no code will succeed unless it has wide support and, in particular, the support of the ANC.

The workshop noted that the ANC 1992 policy conference resolved that the ANC "will support the further development of codes of conduct, along with COSATU and the SACP". [Point C.5. of the ANC foreign investment policy guidelines]

Time is of the essence. US state legislatures and local governments will be reviewing their sanctions legislation in 1993 - there is an urgent need to get a "final" code together and discuss it thoroughly with the solidarity movement before sanctions are lifted.

The workshop gained from insights into the views of the churches on the code. Some church people see the Cosatu code as "biased" towards workers. More emphasis is needed on justice, and on how

social justice can support peace. The SACC is planning to convene a major consultation in January 1993 to consider the code and they would like to develop a joint approach with others.

The following approach was proposed by the workshop for urgent consideration by Cosatu structures and prompt action:

1. Agree with the ANC on a common platform for speeches and comments on the code of conduct issue at the New York workshop on a code [See the attached draft, drawn up by an ANC/COSATU sub committee - note that this is not an alternative "combined" code, it simply seeks to reflect a common approach for this particular workshop]
2. Keep the code's focus on multinational companies / transnational corporations
3. An "all-in" conference should be held in early 1993 to pave the way for the launch of a single code of conduct, supported by all the key players
4. The US-drafted "Freedom Principles" are a useful first step in co-ordinating the different inputs on codes
5. An internally-produced code of conduct will be the basis for future minimum requirements for foreign companies
6. COSATU needs urgently to discuss a preparatory process for the 1993 conference on one code with the ANC, the SACP and the churches.

Appendices:

1. Draft ANC/COSATU PLATFORM OF GUIDING PRINCIPLES FOR A CODE OF CONDUCT FOR FOREIGN INVESTORS AFTER THE LIFTING OF THE POLICY ON ECONOMIC SANCTIONS
2. LIST OF DOCUMENTATION CONSIDERED AT THE COSATU NATIONAL WORKSHOP ON THE CODE OF CONDUCT FOR INVESTORS IN A POST-APARTHEID SOUTH AFRICA

PLATFORM OF GUIDING PRINCIPLES
FOR A CODE OF CONDUCT FOR FOREIGN INVESTORS
AFTER THE LIFTING OF THE POLICY ON ECONOMIC SANCTIONS

[Draft proposals for a common ANC/COSATU position at the New York solidarity meeting, drawn up after the workshop on 7 November 1992]

1. WORKERS RIGHTS: Companies will uphold workers' rights including the recognition of representative unions and their rights to bargain collectively, to strike, to picket peacefully, and they shall not hire strike breakers. Labour practices should accord with all basic ILO Conventions.
2. EMPLOYMENT CREATION: Investment should enhance employment creation.
3. EQUALITY OF OPPORTUNITY: Companies will eliminate all discrimination on the basis of race, religion, sex, political opinion or physical handicap and will implement affirmative action programmes.
4. ENVIRONMENTAL PROTECTION: Companies will adopt strong environmental policies and will keep workers and affected communities informed of any developments that could negatively affect them.
5. TRAINING AND EDUCATION: Companies must enhance the productive capacities of South Africans and must institute training and adult basic education programmes for workers in consultation with the trade union movement.
6. SECURITY OF EMPLOYMENT: Investment must promote security of employment.
- * 7. CONDITIONS OF WORK AND LIFE: Conditions of work and life offered by companies shall compare favourably with the best conditions in the relevant sector domestically.
- * 8. EMPOWER BLACK BUSINESS: Companies should, where possible, adopt business practices which enhance the development of black business in South Africa.
- * 9. IMPLEMENTATION: Mechanisms will be put in place to evaluate the implementation of the above principles, including the disclosure of relevant information by companies.

* Notes

Starred points are not reflected in both the ANC and COSATU policy frameworks:

CONDITIONS OF WORK AND LIFE: modified from the Cosatu code, not in the ANC "approach in the interim phase"

EMPOWER BLACK BUSINESS: not in the ANC or Cosatu frameworks - incorporated from the "Freedom Principles" re-draft

IMPLEMENTATION: not provided for in either the ANC or COSATU frameworks, disclosure of information in Cosatu code, not in ANC approach.

DOCUMENTATION LIST

for the

COSATU NATIONAL WORKSHOP ON THE CODE OF CONDUCT FOR INVESTORS IN A POST-APARTHEID SOUTH AFRICA

1. Agenda and programme 1 page
2. The Cosatu Code of Conduct for Multinational Companies Investing in South Africa [*Economic Policy in COSATU* pages 21-2] 2 pages
3. Foreign investment policy Guidelines of the ANC [*Economic Policy in COSATU* pages 32-5] 4 pages
4. ICFTU "Draft Code of Conduct for Transnational Corporations investing in South Africa" 4 pages PLUS old page on an ethical advisory panel to monitor the code
5. "South African Freedom Principles" for use in the USA 3 pages
6. "Union group drafts code for foreign firms" - criticism and comment on the COSATU code from the USA [*IRRC - South Africa Reporter* June 1992, Pages 21 - 23] 3 pages

TOTAL 19 PAGES

D:\NIC\CODEMEET - November 8, 1992

DRAFT: November 4, 1992

CONFIDENTIAL - NOT FOR QUOTATION OR DISTRIBUTION

SOUTH AFRICAN FREEDOM PRINCIPLES

The end of apartheid and white minority rule in South Africa is finally in sight. The installation of an interim government will remove the need for sanctions against apartheid and open the way for new investment.

These investors will face a fundamental choice. They can invest in low wages and quick profit. Or they can contribute to the growth of a new South Africa by investing in the community as well as plant. Companies can play a significant role in overcoming the legacy of apartheid and building democracy and economic justice by adopting socially responsible investment policies.

The African National Congress, the South African Council of Churches, the Southern African Catholic Bishops Conference, the Congress of South African Trade Unions have all adopted policies urging socially responsible investment. The SOUTH AFRICAN FREEDOM PRINCIPLES incorporate the points of common agreement and have been framed after extensive consultations with labor, religious and community leaders.

- 1. EQUALITY OF OPPORTUNITY:** Companies will eliminate all discrimination on the basis of race, religion, sex, political opinion or physical handicap and will implement affirmative action programs.
- 2. WORKERS' RIGHTS:** Companies will uphold workers' rights including the recognition of representative unions and their rights to bargain collectively, to strike, to picket peacefully, and they shall not hire strike breakers.
- 3. TRAINING AND EDUCATION:** Companies will institute training and adult basic education programs for employees in consultation with unions.
- 4. ENVIRONMENTAL PROTECTION:** Companies will adopt strong environmental policies and will keep workers and affected communities informed of any developments that could negatively effect them.
- 5. COMMUNITY PROGRAMS:** Companies will support community oriented development programs aimed at overcoming the legacy of apartheid in such areas as education, health care and housing in consultation with community organizations and unions.
- 6. EMPOWER BLACK BUSINESS:** Companies will adopt business practices which enhance the development of Black business in South Africa.
- 7. DISCLOSURE:** Companies will provide relevant information to responsible organizations seeking to monitor the above principles and report annually on their implementation.