Legal Regulation of Transnational Corporations (TNCs) in Sweden

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1. Introduction.
In recent years the transnational corporations (TNCs) have been universally identified as the most important phenomenon in international economic relations. At the outset of the 80-s the TNCs accounted for nearly 90% of all foreign direct investments. These corporations have concentrated in their hands more than two-thirds of the total volume of world foreign trade. Their economic power, more often than not, surpass the economic potentiality of individual nation-states.

In the continuing discussion on TNCs widely differing evaluation of the positive and negative effects of foreign direct investments, as regard the host and home countries, have appeared. In one view, these investments bring about an international division of labour and better utilization of different countries’ production reserves, which in the long run promote social and economic prosperity all around. On the other hand, it is apprehended by some quarters, that this development may make it difficult or even impossible for the individual nation-states to accomplish their social, economic and cultural goals. Quite naturally, concern about the growth of TNC operations has been raised in trade union quarters and in the host developing countries.

The emergence of the TNCs is the objective consequence of the development of international economic relations and they undoubtedly play a vital role in the economic development of the host countries. Maximization of the positive contribution of the TNCs is possible only by minimizing and curbing the negative effects of their activities which, *inter alia*, include restrictive business practices, corruption, activities directed to disrupt the socioeconomic development plans of the host country, interference by the TNCs in the internal and foreign policy of the host government, etc. Under such circumstances, what is required is a sound system of law regulating foreign investments.

“The relationships between transnational corporations and host countries evolve within the framework of national legislation and regulations relating to direct investments and other policy aspects which affect the activities of such corporations in host countries. These activities have to be viewed in the context of the legislative and regulatory measures under which these corporations are required to operate. It is consequently important to analyse the nature and pattern of such measures in different countries . . .”

From this point of view, this paper aims to examine the investment legislation of Sweden - a country quite successful not only in its attempts to attract foreign capital but at the same time to keep the negative effects of the latter within desirable limits.

It should, however, be mentioned, that Sweden may be said more a home country for TNCs than a host country. Permits granted for Swedish direct investment abroad from 1970 to 1983 amounted to SEK 11,900 million, whereas the corresponding figure for foreign direct investment in Sweden was only SEK 2,300 million. Needless to say, that this character of Sweden as a home country for TNCs can not but have impacts upon the laws enacted by her as a host country. Any evaluation of swedish investment laws should bear this in mind.

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2. Laws governing entry and functioning of TNCs in Sweden.

As a general practice, the investment law of a host country contains detail and what may be termed as “special” norms as to the behavior of foreign capital, whereas, the more general principles which in a nutshell define the attitude of this country toward foreign capital can be traced in the constitution. The Swedish constitution presents rather an untypical example of promulgation of private property ownership right. In contrast to a vast majority of constitutions of other western countries the Swedish constitution does not contain any explicit provision regarding this right. Only an indirect indication of such right can be derived from a number of other provisions. As for example, Art. 18 of Ch. 2 of the constitution declares: “Every citizen whose property is requisitioned by expropriation or by any other such disposition shall be guaranteed compensation for his loss in accordance with principles governed by law”. Provision of another article (Art. 20, ch. 8) proclaims equality of foreigners with swedish citizens with regard to the right mentioned in Art. 18.

In all cases, provisions concerning the relation between private subjects and the community with regard to obligations incumbent upon private subjects or which otherwise interfere in the economic affairs of private subjects are laid down by law (Art. 3, ch. 8). The Government in its capacity may provide regulations relating to the import or export of goods, money or any other assets, production, granting of credits, business activities etc. Evidently, the government can regulate all spheres in which TNC interest is latent.

In Sweden, where a formal investment code is non-existent a tremendous role is played by various other laws (acts) which regulate different aspects of foreign capital operations in the country. The most important of them is the Act on foreigners and foreign companies rights to carry on business in Sweden (1968:555), also known as the Aliens Commerce Act. Other relevant laws are the Act on foreign acquisition of swedish firms (1982:617), Act on foreign acquisition of real property etc. of 1982 (1982:618). The status of foreign firms in Sweden is to some extent also affected by certain provisions contained in the Companies Act (1975:1385), Companies Ordinance (1975:1387), Accounting Act (1976:125), Foreign exchange legislation (22/6, 1939 & 25/2, 1940), and Act on promulgation of the Acts on foreign acquisition of swedish firms etc. and Foreign acquisition of real property etc. (1982:619). As is evident from these laws, regulation of foreign capital in Sweden is carried on by some special as well as by some traditional civil and commercial laws.

It is remarkable that most of the Acts regulating behavior of foreign companies in Sweden are of quite recent origin, the latest of which 1982:617 and 1982:618 came into force on the 1st. of January, 1983. By the Promulgation Act (1982:619) are repealed, with some minor exceptions the Act of 1916 concerning certain limitations of the right to acquire real property, etc. (1916:156) and the Act on certain restrictions in the making of swedish partnerships (1968:557), which prior to 1983 had been the main legal instruments for regulating foreign capital in Sweden.

It is evident from the above mentioned list of legal instruments that TNCs in Sweden are regulated by the same norms which apply to local companies or to other foreign companies which are not necessarily TNCs. However, this does not lead to ineffective regulation of the TNCs because prior to entry and registration and in subsequent stages of operations the TNCs have to fulfill numerous requirements of the host states which enable the latter to effectively control the former. We will now see how this is achieved in the swedish legislation.