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CORPORATE SOCIAL RESPONSIBILITY, MULTINATIONAL COMPANIES AND ECONOMIC GLOBALIZATION[i]

RESPONSABILIDAD SOCIAL EMPRESARIAL, EMPRESAS MULTINACIONALES Y MUNDIALIZACIÓN ECONÓMICA

RESPONSABILIDADE SOCIAL CORPORATIVA, EMPRESAS MULTINACIONAIS E GLOBALIZAÇÃO ECONÔMICA

Selma Alves Dios[ii], José Paulo Cosenza[iii]

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Abstract

This document presents theoretical reflections on the management of Multinational Companies (MNEs) and the focus on Corporate Social Responsibility (CSR). Documents were reviewed to identify how this type of organization could contribute to global inequality and the characteristics of the general orientation of CSR in these companies. The main results indicate that when they move to less developed countries, MNEs take advantage of unequal income conditions and the precariousness of labor and environmental regulations. However, the construction of a favorable image through CSR contributes to the success of MNEs. Keywords: Corporate responsibility, Globalization, Multinational enterprises, Social inequality.

Resumen

Este documento expone reflexiones teóricas sobre la gestión de en Empresas Multinacionales (EMNs) y el enfoque en la Responsabilidad Social Empresarial (RSE). Se revisaron documentos para identificar de qué manera este tipo de organización podría contribuir a la desigualdad global y las características de la orientación general de la RSE en estas empresas. Los principales resultados indican que cuando se trasladan a países menos desarrollados, las EMNs aprovechan las condiciones desiguales de renta y la precariedad de los reglamentos laborales y ambientales. Sin embargo, la construcción de una imagen favorable a través de la RSE contribuye al éxito de las EMNs. Palabras clave: Responsabilidad corporativa, Globalización, Empresas multinacionales, Desigualdad social.

Resumo

Este documento apresenta reflexões teóricas sobre a gestão de empresas multinacionais (EMNs) e o foco em responsabilidade social corporativa (RSE). Os documentos foram revisados para identificar como esse tipo de organização poderia contribuir para a desigualdade global e as características da orientação geral da RSE nessas empresas. Os principais resultados indicam que, quando se mudam para países menos desenvolvidos, as EMNs tiram proveito das condições de renda desiguais e da precariedade das normas trabalhistas e ambientais. No entanto, a construção de uma imagem favorável por meio da RSE contribui para o sucesso das EMNs. Palavras-chave: Responsabilidade corporativa, Globalização, Empresas multinacionais, Desigualdade social.

INTRODUCTION

Social inequality has been worsening over time. The development model based on the broad opening of the markets has failed to let the benefits of globalization and the growth of international transactions reach the poorest population extracts. On the contrary, even salaried classes have seen their share in the wealth generated decrease. This picture is greatly aggravated by the drastic reduction of state participation in the economy – either as the primary agent of strategic sectors, due to the privatization of public companies, or as a redistributive agent of the economic income, due to pressures for fiscal austerity, or as an instance of regulation, due to pressures for deregulation.

Companies are the agents of the primary distribution of income by remunerating the factors of production for the wealth generated. The way in which they manage their activities and conduct their transactions is reflected on the remuneration of the segments involved in their operations and directly influences the level of income and the social conditions of the environment in which they operate, particularly about hand labor and taxes. Large companies with a big scope of action have a broad effect, whereas companies less identified with the interests of their environment produce a negative effect.

In this study we analyze MNEs performance, addressing their interests, strategies and practices associated with the process of relocation, and the power they have in determining their own conditions of action, against local interests, which contribute to the worsening of inequalities in the world. Considering the intensity of the impacts of companies' actions and the fact that these impacts result from their management, we analyze the effectiveness of the conduct of CSR in achieving responsible actions. For this purpose, we review some of the main CSR concepts and reference documents both universal and regional, to identify in which way the effect that this type of organization has on global inequality, as well as to describe the features of the general orientation of CSR.

According to Sklair (2002), the means from which MNEs derive their benefits remain a legitimate area of interest. The sociological effects of their political, economic, environmental and social practices should be further investigated to inform stakeholders about the terms of the agreements and expectations of harm to the environment and the local community. For Grosse and Behrman (1992), strategic relationships between MNEs and host countries should be incorporated into research on these companies. Deepening the analysis of inequality with new studies that improve existing information with new analysis tools is a relevant research agenda (ECLAC, 2015).

The study is essentially developed by the compilation of the evidences presented in the literature and the documents but includes a single in-depth exploratory case study (YIN, 2014) to highlight the research issues. The review of the literature covers several areas of knowledge, such as Economics and Sociology, due to the complexity of the proposed content; it reviews the terms of the OECD Guidelines, seeking to understand how global inequality is addressed and to identify general CSR considerations that determine their effectiveness in achieving responsible behavior on the part of MNEs. The case study shows that the social responsibility approach is mainly characterized by the absolute lack of control of MNEs and the submission of local interest to them (Dios, 2016).

The negative impacts resulting from the actions of large MNEs influence people's lives in many ways. These problems have led to demands for more ethics in their actions and greater equity in the distribution of the wealth generated. In this context, the concept of CSR has developed, having currently many reference documents: The Guidelines for Multinational Enterprises are possibly the most referenced ones, about MNEs activities. Nevertheless, the scenario of problems arising from their actions, particularly those related to social inequality and job insecurity, seems to be worsening. This raises two main issues: (i) How can MNEs get involved in social problems? and (ii) What are the predominant characteristics in the conduct of CSR that determine the current scenario of problems regarding companies' performance?

Along similar lines, we dedicate this study to the analysis of the involvement of MNEs in the determination of economic and social conditions and to the way CSR can be carried out in this scenario. The performance of MNEs is approached through the economic power, the political action, and the conflicts with local interests that such companies may have. According to Gleckman (1995), MNEs, in one way or another, play roles which are apparently conflicting: while reporting and marketing their global reach, they deny that their collective actions can have negative consequences or power to influence events or agencies.

However, mainstream scholarly and popular discourses present globalization as a free and uncoerced process, either beneficial or neutral, but not inherently malignant (Srikantia, 2016). In contrast, the globalization process has widened global inequalities and social problems as MNEs are the main promoters and beneficiaries of market opening and globalization that play a decisive role in establishing the asymmetry of power between MNEs and states. On the other hand, CSR, as posed by the mainstream, not only is unable to prevent that situation, but ends up promoting it and expanding it.

This paper is divided as follows: after this introduction, the next section presents the literature review where we discuss the social problems generated by the globalization of companies. In this regard, we examine the issue of global inequalities, caused mainly by the precariousness of job conditions as an expression of a social need with priority interest from both political and socio-economic institutions. This is followed by an analysis of the reduction of state participation, showing that the effects of such relations of exploitation, such as inequality and poverty, are perpetuated and intensified by the absence of an effective action from the state. In the next section, we reflect on the globalization of companies from the perspective of social impacts, reviewing the terms of the OECD Guidelines. Next, we explain the methodology adopted for the research application and the case study describes two of the worst environmental disasters in Brazilian history: The dam collapses of a Brazilian mining group (Samarco and Vale Corporations) in the southeastern state of Minas Gerais, in the short period of three years and two months. After explaining the methodological procedures and presenting our results, we discuss our findings, followed by the conclusions and the bibliography.

LITERATURE REVIEW

Inequality in the World and the Reduction of Labor Income

The world is facing its biggest financial and economic challenge since World War II. The benefits of growth for the poor can erode if income distribution worsens (World Bank, 2008). Since 2010, 1% of the richest individuals in the world have increased their share of wealth globally. In 2014, they reached 48%, with virtually all the 52% in the hands of the richest 20% of the world's population, with the remaining 80% holding only 5.5% of the world's wealth. The projection is that, in keeping with the trend, by 2020 the richest 1% of the population will own more than

54% of the world's wealth, while the remaining 99% will have to compete for less than 46% (Oxfam, 2015). The overall income inequality distribution is also very high, fluctuating around 0.7 in the Gini Coefficient and still with a tendency to continue to accentuate (Milanovic, 2013). For comparison purposes, the Gini Index for a country considered relatively equitable in relative terms as Norway was 0.226 in 2012. Meanwhile, South Africa showed an index of 0.630 in 2009 and was among the most unequal countries in the world. Spain, in turn, is the fifth country in the EU-28 with the highest level of economic inequality (6.3), meaning that the income of Spain's richest 20% was 6.3 times as much as that of the poorest 20%. In 2004, the value of such indicators in Spain was 5.5%, which reflects the way the income has been distributed in that country.

The world's elite group (64.3% of the wealthiest individuals) lives almost exclusively in North America, Western Europe, and the wealthiest countries in Asia and the Pacific, with Japan representing the largest share. The poorest are in China, Brazil, Africa and India (with 0.9% of the total world wealth for 15.4% of the world's population). Among the 10% of the poorest people in the world, 26.5% are in India, 6.4% in China and 2.2% in Brazil. The United States has only 0.2% of its population in that group, with a total wealth of less than US$ 178 (Davies et al., 2008).

The main source of income for households is labor income, which sustains the greater part of the world's population. However, labor incomes have been decreasing steadily over time. The share of wages in Europe's GDP dropped from an average of 75.5% in the period 1971-1980 to 69.6% in 1995. In Spain, wages at the end of 2006 represented 46.4% of the GDP, 3.2 points less than 10 years ago, causing salaries to be at historic lows (ILO, 2009). Since the 1980s, most countries have experienced a downward trend in the share of labor income, which means that a smaller proportion of annual income has been earmarked for the remuneration of the workforce and a higher proportion for capital income (ILO, 2013). In addition, there is a precarious labor market, which has spread over the last 30 years in developed countries, impregnating different employment situations with insecurity and uncertainty, degradation of working conditions, and problems of reduced social protection (Cano, 2007). At global level, employment rate trends (employment-population ratio), which indicate a country's ability to generate employment, show that economies are simply not generating enough employment opportunities to absorb the increasing working-age population growth (Ortiz and Cummins, 2012).

Among those living in poverty, the numbers of adult women and girls are alarming. Approximately half of the world's young girls and young women live in poverty on less than $2 a day (Ortiz and Cummins, 2012). More than one woman out of four are employed on low wages, while the figure does not exceed 6% among male workers (Concialdi, 2001). On the other hand, billionaires are a group composed mainly of men: 90% (Hardoon, 2015). According to Torres-López (2009), the parties that act in the labor market are in very unequal conditions. The hiring of wage labor does not occur by virtue of a desire for cooperation in productive processes but in order to obtain benefits from its use. This implies that work has become a commodity from which to obtain the maximum yield.

Piketty (2014) points out that, since capital incomes are higher in a small part of the population, capitalists or owners of capital tend to accumulate more wealth over time. Thus, the trend towards inequality of capital income is confirmed, so that the capital-labor ratio should be brought to the fore in the analysis of CSR.

All this shows that the problem of inequality is first observed in the distribution of primary incomes, in which enterprises are involved not only because of their natural condition as coordinators of the productive process, but mainly because of the deliberate practices of concentration of income. However, no CSR reference document mentions this. The responsibility of companies in the process of distribution of income is ignored leading to the increasing wealth-concentrating momentum of these agents. This occurs, for example, in the renewed EU Strategy for 2011-2014 on Corporate Social Responsibility (European Commission, 2011), which states the objective of maximizing the value creation for its owners/shareholders and, although it incorporates the word shared, it makes no mention of the ways to share the value created.

Reduction of State Participation

The insufficiency or lack of labor income must be complemented by the redistributive action of the state. Public interventions redefine the distribution generated by the market through social benefits - mechanisms that have a direct impact on the distribution of available income of households; also, through mechanisms that can be considered indirect, such as public spending on education and health that do not affect current household disposable income, but have a very relevant impact, insofar as they promote human capacities and facilitate future insertion in the labor market (ECLAC, 2015).

However, almost 80% of the world's population does not have comprehensive social protection such as pensions and unemployment insurance and almost 800 million people are at risk of returning to poverty in a setback. The inadequacy of social benefits tends to worsen, even in Europe (UNDP, 2014). In 158 countries, since 2010, governments have been adopting austerity measures, with cuts in public spending on social programs, transfers to families, wages, social security and public pensions (Ortiz and Cummins 2012). The policies of austerity, while incurring in the aggravation of social inequality, are also a consequence of it. According to UNDP (2014), extreme economic inequalities inevitably lead to political inequality, the result of which is that governments are less likely to provide social protection systems that can safeguard the most disadvantaged from the consequences of major crises.

In addition to effective action in the redistribution and provision of services essential to welfare, the state is responsible for regulating the actions of economic agents. Regulation of the negotiation between workers and companies, as well as the maintenance of minimum wage standards are relevant measures to help in the balance of forces in the market and contribute to diminish disparities. However, according to Santos (2001), the effects of such relations of exploitation inequality and poverty, are perpetuated and intensified by the absence of effective action by the state, not only in the redistribution of wealth generated in the economy, but mainly in the regulation of the actions of economic agents to prevent such exploitation.

According to Roberts and Dörrenbächer (2016), national and international regulations as well as institutional contexts are vital factors influencing MNEs activities. However, the international capitalism model has weakened the state performance in its role in the national regulatory context, resulting, in the case of labor, in the erosion of protection, increasing job insecurity and declining working conditions.

Banerjee (2014) claimed that for CSR to produce social outcomes that are not necessarily constrained by corporate rationality there needs to be a change in the normative framework of public decision-making at institutional level.

Globalization of Companies and Social Impacts

The process of globalization, according to Neffa (1998), has progressed in three stages: in the first one, international exchanges developed, but under the control of states, which wished to direct, regulate and control trade to prevent internal imbalances. It ends after World War II. The second stage is characterized by the growing influence of MNEs that operated worldwide and developed the cycle of their products, taking advantage of the resources of each country where they were implemented, mainly between the second postwar period and the early years of the crisis of the 1970s. MNEs make decisions autonomously with respect to national states, which consequently lose much of their economic sovereignty. In the third stage, which has run from the mid-eighties to the present day, globalization in the financial sector is consolidated, using new information technologies, while at the same time taking advantage of the process of deregulation of these markets.

The liberalization of international trade is the key component of the globalization model, the most important progress being made through rounds under the General Agreement on Tariffs and Trade (GATT), from 1948 to 1994 and then in the World Trade Organization (WTO), whose main function is to ensure that trade takes place in the most fluid, predictable and free way possible (WTO, 2013).

In trade negotiations taking place within the WTO, treaties are produced, which in many cases go against the interests of peripheral countries, such as the imposition of much larger tariffs – four times as high on average – on developing countries than on the developed ones, and provide massive subsidies to agriculture to the latter, impacting even the primary sector, the main area of economic activity in poor countries (Klein and Tokman, 2000). Unequal transactions result in even greater disparities in wealth and income among countries.

Developed countries offer great business opportunities for large companies from developed market economies. With this, MNEs do not passively adapt to such institutional environments, but are often powerful actors that seek to change and create institutional environments in emerging markets. They do this through the management of institutional settings that could systematically diverge, depending on the home-country institutional contexts of these companies (Becker-Ritterspach, Lange and Becker-Ritterspach, 2017). The opening of markets facilitated the pressures for the sale of public companies and their subsequent privatizations, which has contributed strongly to increase the presence of MNEs in underdeveloped countries, since their purchasers are mainly international capitalists. In this way, globalization is essentially a mechanism for the expansion of large corporate groups for the various economies, where they can obtain advantages and maximize their profitability, and the flexibility to continue to move their operations in search of increasing competitive advantages.

The process of globalization, privatization and deregulation has had strong effects on social stratification. The volatility associated with the functioning of open economy added instability mainly to jobs and income because of the impact of policies - precariousness of working conditions (lack of contracts or social insurance, etc.), outsourcing and computerization, as well as unemployment (Klein and Tokman, 2000). At present, concerns about employment and social exclusion are not ascribed to developing countries but are growing even in the most developed economies of the world.

MNEs are the main players in the globalized economy and have had enormous advantages in the triple process of globalization, privatization and deregulation in the international arena. To Śliwa (2007), the language of international corporate strategies and competitive advantages masks issues of poverty and economic exclusion, instead of addressing them from the point of view of ethics and social responsibility.

The evolution of MNEs over the years of postwar economic growth is due to the interest in controlling the production and markets of raw materials, taking advantage of the variation in the prices of the different currencies and the lower salaries in the capitalist periphery and has been, to a large extent, the cause of the internationalization of economic relations (Torres-López, 2009).

After all, MNEs have proved to be the main beneficiaries of the neoliberal globalization process, which brings in return the universalization of economic and social problems (Hernánez Zubizarreta & Ramiro, 2009). The opening of local markets has guaranteed large corporate groups easy access to the markets of poor countries. According to Stiglitz (2006), when defending their economic interests in the WTO, the USA and the EU guarantee, before all else, a space for the expansion of MNEs. The large multinational groups have been the major beneficiaries of the privatization process, whose advantages are initiated by the acquisition value of privatized companies, lower than the real value of their assets, in addition to the fact of being strategic sectors such as electricity, mining and telecommunications. Deregulation has meant wide freedom to exercise their production strategies to control their markets for raw materials and labor anywhere in the world, insofar as it has reduced protection and state intervention in trade, finance and labor markets.

Companies in the ‘triad’ or the ‘triangle’ of EU/US/Japan relations account for approximately 75% of global economic activity. Through a committee of 13 large MNEs, including DuPont, Monsanto and General Motors, they are also responsible for the design and implementation of the TRIPS Agreement (Aspects Relating to Trade in Intellectual Property Rights), which grants companies the right to protect their intellectual property in all WTO member countries. This measure is of great benefit to companies in developed countries, while at the same time severely damaging the economies of developing countries, forcing market dependence on what is produced by MNEs protected by the intellectual property law.

One of the advantages is the freedom of concentration of capital in which an ever-smaller number of large corporations is formed through mergers and acquisitions, in which a concentration of capital is achieved, which surpasses the capacities and barriers of national borders and gives them great power of control. Most of the economic branches are controlled by global oligopolies composed of less than a hundred corporations.

Vitali et al. (2011) found a nucleus of 1,318 highly interconnected companies that hold most of the shares of the leading companies in the world (the blue chips). These entities account for 95% of the sales revenue of all MNEs and the 737 largest shareholders (0.123% of the total), who have the power to collectively control 80% of the value of MNEs. Of this nucleus, 147 corporations (less than 1%) control 40% of the total wealth of the entire network. Most are US and UK financial institutions, including Barclays PLC, JP Morgan Chase & Co Merrill Lynch & Co., Inc., the Goldman Sachs Group, Inc., Morgan Stanley, Bank of America Corporation, and Lloyds TSB Group PLC. Control is exercised through the chain of shareholder relationships, where a shareholder has control of a company, which controls another company and so on, being a disproportionate power over the global economy that may represent a significant systemic risk. Between 2013 and 2014, the wealth accumulated by billionaires in the financial sector rose from 1.01 trillion to 1.16 trillion dollars in just one year, a 15% increase, according to the ranking of Forbes 2013 (Oxfam, 2015).

The MNEs essence treats the various national markets as if they were one. Their management responds to a single strategy, neither distinguishing between different productive establishments nor identifying with the interests of a single country, but they try to optimize their results worldwide (Grosse and

Behrman, 1992). A new managerial stratum has been generated, which tends to apply an international standard to labor relations, ignoring national and local characteristics (Klein and Tokman, 2000).

In addition, the lack of identification with local interests may lead to conflicts with the objectives of national policies. The conflict consists in the fact that the well-being of developing countries, rich in resources, depends on their obtaining much in return for their resources; and the well-being of wealthy corporations of the advanced industrial nations depends on whether they cost them little (Stiglitz, 2006).

These organizations act beyond the internal management of their organizations and seek to interfere in political decisions, both in the international arena and at the internal level of countries. They are political institutions maintaining political relations with civil society (Strange 1996). Political action often occurs in a hidden way, by direct access to people at the highest levels of political and administrative power with considerable success (Sklair, 1998). Efforts are aimed at influencing the conduct of government policies and regulatory measures of business conduct in general, with the common goal of achieving as high a deregulation as possible, defining the conditions of their performance in the country where they are settled, and guaranteeing access to the markets of the underdeveloped countries, through lobbying, bribery and destination of resources to electoral campaigns. An example of the relationship between government activity and the interests of large corporations (Rothkopf, 2008). is the World Economic Forum (Forum of Davos), a private foundation created in 1971, which meets annually at the summit of the most powerful political leaders and entrepreneurs of the world.

The power of pressure groups and the effectiveness of lobbies are defined not only by financial capacity but also by social reputation. The assessment made by the social body of that group management of the different conflicts or episodes in which it acts is a relevant factor in the decision of politicians.

Cooperation initiatives and the development of reference documents and voluntary codes of conduct are also mechanisms for political action, as well as in the elaboration of standards formulated by organisms formed by MNEs to which all countries shall converge, intervening in the markets (also submitting to smaller companies). These standards, in general, aim to reduce the costs of operations, as well as to enable better control of transactions globally, as in the case of the International Financial Reporting Standards (IFRS).

In the displacement of production processes to less developed countries, companies generally go in search of labor and natural resources at a lower cost, less stringent legislation for worker protection and the environment, with lower levels of wages, poorer working conditions, less job security, and longer working hours in relation to the country of origin. In Brazil, for example, in exchange for the establishment of a new automotive plant, state and municipal governments offer incentives that invariably include the donation of land for the installation of the plant; provision of infrastructure for the preparation of the area, including road and logistics infrastructure; rail links; and the development of port terminals; exemption from tax for periods of ten years; the granting of loans by the state at prices much lower than the market; and the creation of government financial and legal guarantees (Arbix, 2000).

For example, Wal-Mart employs 2.1 million workers, which is more than the total number of workers in Denmark, Finland, Ireland, and New Zealand (Antunes, 2013, 33-48).

To move, companies usually receive subsidies and tax incentives from the governments of the destination countries. On the other hand, in their country of origin, where they reduce their activities or close their plants, they often leave social liabilities - many unemployed workers, contraction of the local economy and social stress. The number of workers in some of these MNEs is larger than the number of workers in several countries (Antunes, 2013). Likewise, they seek to obtain advantages by trying to get the government to take care of part of the social benefits due, because of breach of terminated employment contracts. The same may happen when MNEs close or reduce their activities in the destination country.

The investments they make tend to be temporary, since they remain strategically prepared to move if the situation that justified their investments in the country changes, favored by the context of free movement, with labor and market deregulation. Thus, the jobs created - the main advantage attributed to the permit of implantation of MNEs - have temporary characteristics, since their relocation is continuous. According to Gitli (1997), a specific form of transnational presence is the maquila. As the transfer of certain parts of the productive process from one country to another is a known fact, companies usually take advantage of the lower labor costs when they have a significant impact on the total costs of production. Reducing the workforce in corporate restructuring processes has become an important negotiating element for MNEs vis-à-vis national policies, shaping the design of these companies (Ruesga & Bichara, 2008).

During their activities, MNEs can also benefit from resource transfers through transfer prices. Some (in general their head offices) sell to others intermediate products at high prices, to be passed on to where smaller salaries allow an easier profit recovery, or where the losses of the subsidiary (not the group, which benefited from the high-selling price) are easier to compensate with the aid or subsidies from states seeking to secure employment, or even to make the accounting benefit arise where there is no taxation.

In these situations, there is a transfer of income from the public to the private sector and from the lowest-income people - whether they need transfers from the state, workers or the society at large - to the people with the highest income, the capital owners. According to Torres-López (2009), the presence of MNEs in an economy is not always a favorable fact because multinational investments tend to be used to buy existing companies or to control the production of some goods that are competitive with their lines of production in other parts of the world, which does not necessarily imply an inflow of capital. In addition, the benefits to which they give rise are usually repatriated or destined to funds of speculative capital or to the investment property (real estate or non-productive assets). On the other hand, the greater presence of MNEs generally implies a greater marginal propensity to imports, which prevents them from being a stimulus factor for national intermediate sectors, being rather an important deindustrialization factor.

Corporate Social Responsibility and the Action of Multinational Enterprises

The concept of CSR has a multiplicity of reference documents for the promotion of company social responsibility. The relevance of the documents is configured not only to serve as a reference and justification to their actions, but also for the capacity to legitimize the performance of companies that, in general, obtain a kind of approval and economic benefits from the association of their image to CSR. Among them, the document OECD Guidelines has the greatest impact as a general CSR reference for MNEs and are recommended as a benchmark in CSR in most of the latest documents, which have already emerged for the sake of intense globalization and the generalization of normative promotional instruments such as the UN Human Rights Guiding Principles (UN, 2011) and the renewed EU Strategy for 2011-

2014 on Corporate Social Responsibility (European Commission, 2011), among others.

These guidelines form part of the OECD Declaration on International Investment and Multinational Enterprises related to foreign investments and present recommendations addressed to governments and companies from which we have derived some qualities, commented below.

Recommendations constitute minimally advisable precautions, such as those concerning corporate governance (Principle VI); human capital formation (Principle IV); dissemination among employees of corporate policies (Principle VIII); measures or strategies of management and positioning in the market (Principles III), or simply that companies do not evade compliance with the law in those aspects (Principles V and IX).

Throughout the document, concessions are also verified, on which companies can rely not to comply with the same Guidelines, such as:

- ✓ Making use of the expression where feasible;
- ✓ Conditioning compliance to the guidelines so as not to jeopardize the good performance of multinational businesses;
- ✓ Giving veiled support for activities that have a significant impact on the environment and health or safety, while recommending that companies carry out an environmental impact assessment, without presenting any appropriate criteria for that purpose;
- ✓ Conditioning the compliance with the competition law to the applicability of the competition law of those countries whose economy is possibly undermined by the anti-competitive activity carried out by the MNEs, as well as the safeguarding of cooperation with the competition authorities;
- ✓ Asserting the right of companies to seek amendments to the laws or regulations applicable in areas such as environment, labor, health, safety, taxation and financial incentives;
- ✓ Provisioning non-transfer of technology, considering the protection of intellectual property rights;
- ✓ Failing to submit criteria for the definition of the adequate proportion of local staff employment, and
- ✓ Granting contributions to candidates for public office and to political parties or other political organizations, when they fully respect the requirements for the disclosure of information to citizens.

Principle II, on the respect for human rights of persons affected by their activities, contains a threefold ambiguity: it treats as a voluntary procedure the determinations of the UDHR, makes it acceptable that MNE activities affect people, and that respect for the human rights of the persons concerned is in conformity with the international obligations and commitments of the host government. However, many countries do not subscribe to international obligations or commitments, or simply do not comply with them. Moreover, as we have seen, the most representative document of Human Rights is the UDHR, but the rights provided for in this declaration do not have the same force as the determinations relating to international trade treaties.

Principles VII and X are the closest to the purpose of CSR. Nevertheless, about the conduct with partners and the supply chain, it recommends that companies encourage, where feasible, the application of principles of business conduct consistent with the Guidelines (Principle X), without any mention to social responsibility or even to ethics. In this sense, it is interesting to note that the term ethics does not appear in the writing of any of the principles.

Principle VII, Developing and implementing self-disciplinary practices and effective management systems that promote a relationship of mutual trust between companies and the societies in which they operate, is also presented in an undemanding and ambiguous way. However, the response given by companies to the demands and expectations of society can be based on a responsible position, as far as possible, or rather be achieved thanks to the quality of the organization's communicative relations with its public, which seems to be what generally happens.

In all documents, as well as everything related to CSR, the disclosure of information is voluntary, which compromises the presumption of transparency of the companies' actions. Mainstream discourse in CSR has focused mainly on models of accountability that have privileged the legal fiction of the corporate status of MNEs, in other words, their legitimacy (Omoteso & Yusuf, 2017).

But beyond that, the Guidelines provide for several restrictions on MNEs disclosures. About the disclosure of information to workers, they consider that:

- Information may not be disclosed with respect to certain points or its disclosure can only be carried out contemplating certain protections;

- The requirement to communicate fiscal information is subject to certain limits, establishing a link between the information to be provided and its relevance for the application of the tax legislation in question; and

- Regarding the information to citizens, companies shall take due account of costs, confidentiality and competitive factors and the protection of intellectual property rights. Even in the case of changes that may have a significant effect on the livelihoods of their workers, such as the closure of an entity, which results in collective dismissals or redundancies, they provide for the possibility of not notifying workers' representatives and competent public authorities in advance conceding that the specific circumstances be considered in each case.

The OECD document foresees that information about the procedures, facts, arguments and opinions provided in the case denounced before the NCP (National Contact Points) will also be kept secret, as well as the result, under the vague justification of sometimes it is better not to divulge facts publicly (OECD, 2013).

In the Guidelines there is no mention of differences in the levels of salaries between the subsidiary company in an underdeveloped country and its parent company in the country of origin, nor of the wage differences across the hierarchical levels of the organization. Also, MNEs are exempt from liability for labor abuses that may be committed by subcontractors (Principle X).

Most of the recommendations in the Guidelines are addressed to governments, which are the signatories and those who undertake the commitments, since governments tend to harmonize with the interests and activities of MNEs.

The Guidelines state that public authorities should consult companies on the development and implementation of policies and regulations (one of them being the Guidelines themselves). The OECD itself affirms that the Guidelines are supported by a more effective implementation procedure, where governments bear ultimate responsibility for their implementation. It should be noted that the clear majority of MNEs come from developed OECD countries, operating in the least developed countries around the world.

The demand that governments should act in the interests of MNEs and their participation in the formulation of regulations is constant throughout the document. This is the case of the section on Science and Technology, which advocates the participation of MNEs in the formulation by the host country of frameworks conducive to the development of innovation systems or the determination not to question the comparative advantages of any country in which they invest.

In the OECD Guidelines, governments must adapt to international law the conditions under which MNEs operate in their respective jurisdictions; the recommendations are addressed to MNEs while being completely voluntary.

We understand that these determinations, in addition to the interference in government free action, constitute a protectionist clause in favor of MNEs. According to Sicsu et al. (2005), no country has thrived without a development project that responds to national interests and allows a sovereign insertion of the country in the international economy. This consists of a set of attitudes of governments and citizens with the aim of defending the capital and labor of their country in the world where companies compete for new markets and in which, beyond their borders, financial capital seeks to increase its profitability requiring lower risks.

Thus, the Guidelines, which are presented as recommendations led by the government to MNEs, have a rather inverse direction, seeking to ensure that governments align national interests with those of MNEs.

Such conditions intervene in the prerogative of states to introduce the differences that are necessary for the attainment of general welfare, such as redistributive policies and the development of the internal market. In addition, they constitute a form of expropriation of the power of countries to solve problems internally, in accordance with their internal regulation and their political, social, economic and cultural context.

Acting governments are obliged to establish National Contact Points (NCPs), whose main function is to promote the application of the OECD Guidelines and to deal with problems arising from alleged non-compliance with the guidelines. NCPs are established as a unique and indispensable condition for managing conflicts of interest between MNEs and host countries, including trade union matters, with the power to present the final formulation for the conflict, always in accordance with the determinations of the Guidelines. They do not indicate any other instance for the resolution of the conflict. That determination conflicts with the ILO Conventions, which stipulate that national legislation ultimately regulates companies' operations. NCPs may consist of a single person, such as a designated high official, that is, they are integrated into the structure of the State Administration.

In Spain, the NCPs are under the Secretariat of State for International Trade of the Ministry of Industry, Tourism and Commerce. The Coordination of the NCPs of Brazil oversees the Secretary of International Affairs of the Ministry of Finance. For Hernández Zubizarreta (2009), governments have been more concerned about not bothering MNEs than about perfecting the operation of NCPs to protect the rights of the majority. Indeed, OECD Watch (2005) points out that the NCP processes have been unpredictable and unfair, as well as full of numerous deficiencies in their development, such as:

- Unequal and unfair treatment of NGOs and trade unions;
- The lack of means to investigate or fix the facts;
- The reinterpretation of the "investment nexus" in the cases that are involved in productive chains;
- The competition with parallel legal procedures;
- Non-decisive or weak statements;
- The absence of communication; lack of willingness to evaluate and recognize violations of the guidelines;

- The extension of confidentiality to all phases of the procedure, and
- The minimum participation of the companies.

According to how NCPs are constituted, decisions in this forum will be biased towards one or another stakeholder. Thus, the political aspect of the composition of these organizations that issue resolutions and criteria for assessing MNEs social responsibility in each country is a key element for the analysis of their conduct.

RESEARCH METHOD

This study is characterized as qualitative research, of a descriptive approach, applying Content Analysis (Bardin, 2016) to discuss the characteristics of CSR of MNEs. According to Tripoli and Bender (2010), descriptive research seeks to describe a sample's characteristics and the relationship between the phenomena, situations and events.

To understand the MNEs' CSR practices, we investigated two cases of severe environmental disasters in Brazil. In this sense, we examined the news reported in specialized economic media and Samarco and Vale corporation's communications. We carried out a survey of this material disclosed in the most widely circulated newspapers, focusing on the information about the environmental disasters that occurred in the cities of Mariana and Brumadinho. The consequences of the rupture of the dams have caused damage to the environment, the ecosystem and the people, depicting the social and environmental risks they caused. Brazil's latest dam disasters were a human and environmental tragedy, clearly demonstrating the great repercussion of the event magnitude, given its importance to the country.

To analyze the results, we applied descriptive statistics techniques, using a single in-depth exploratory case study, which, according to Yin (2014), provides a comprehensive analysis of research. This method is useful to understand the dynamics present within unique settings and helps address specific research questions, which restricts the results only to this case (Eisenhardt, 1989). In addition, the case study presents an overview of the facts as they occurred, through a direct analysis of sources and their interpretation (Eisenhardt & Graebner, 2007). The descriptive analysis is due to the size of the research sample, which proved insufficient for the operation of more sophisticated tests.

THE CASE CONTEXT

The negative outcomes of MNEs activities have been increasing in many host countries. For instance, in Brazil, recent cases are the Samarco's disaster, in November 2015, and Vale dam collapse, in January 2019. Both disasters occurred in the state of Minas Gerais and were selected because they represent extreme cases (Eisenhardt, 1989) in the eyes of the CSR literature.

This section will help better understand the discussion contained in this paper, presenting a summary of the cases of the Brazilian mining companies Samarco Corporation and Vale Corporation.

The rupture of the Fundão Dam in Mariana, Brazil

Samarco Corporation is a closed-capital joint-venture controlled in equal shares by two of the world's largest mining companies, the Brazilian company Vale

Corporation and the Anglo-Australian BHP Billiton. Founded in 1977, this company operates in the Brazilian mining sector through a concession transferred from Samitri (Sociedade Anônima Mineradora Trindade) to Samarco. The company has been playing a prominent role for a long time in the social and economic activities in the municipality of Mariana, in Minas Gerais, a state located in Southeastern Brazil.

Samarco's main industrial activity is the manufacture of iron ore pellets marketed to the steel industry located in 19 countries in the Americas, the Middle East, Asia and Europe. Employment generation of Samarco is about 2,969 people. For the past ten years, the results of Samarco have been presented in accordance with the Corporate Responsibility Report Guidelines, developed by a Brazilian non-governmental organization, the Ethos Institute of Business and Social Responsibility and the guidelines of the Global Reporting Initiative, or GRI, which establish a worldwide standard for preparing sustainability reports and for posting social, economic and environmental results.

Samarco publishes its sustainability report within GRI standards, being classified by GRI G3 guidelines as A+ and states in its annual sustainability reports that it is committed to social responsibility. In 2014 Samarco disclosed its annual sustainability reports based on the GRI G4. The following table summarizes the main data referring to Samarco, extracted from its published Reports, in the last six years prior to the accident.

Table 1. General Data of Samarco's performance from 2010 to 2015.

Year / Indicators	2010	2011	2012	2013	2014	2015
Added value to distribute (US$ million)	2,339.7	2,504.4	1,980.1	1,936.7	2,029.8	-1,033.8
Shareholders (Dividends and Retained Earnings and Losses in period)	58%	73%	72%	72%	63%	-97%
Employees (Wages)	6%	7%	9%	10%	10%	11%
Government (Taxes)	14%	14%	13%	1%	9%	-71%
Lenders (Remuneration of Third-Party Capital)	23%	7%	7%	18%	17%	57%
Number of employees (Amount)	2,061	2,290	2,452	2,740	2,969	3,001
Production (Millions of Tons)	23,449	22,929	22,066	21,737	25,075	25,366
Electric power consumption (GJ) GRI G4-EN5	7,045,200	7,007,724	7,181,431	7,147,529	8,769,528	No Info.
Net revenue (US$ million)	3,566.1	4,232.6	3,365.5	3,332.7	3,215.2	1,660.2
Net profit (US$ million)	1,274.8	1,814.1	1,418.1	1,387.7	1,312.9	-1,494.9

Source: Elaborated by the authors based on Samarco's Annual Reports

On November 5th, 2015, Samarco caused a terrible disaster in Brazil - the Fundão mining dam collapse in the city of Mariana, Minas Gerais, causing serious damage to the environment and the ecosystem: 1,469 hectares of vegetation, along 44.8 miles of water courses, including the ones in permanent preservation areas, were destroyed. Thousands of animals were killed, 19 deaths and many people are still suffering the consequences of this tragedy. Experts estimate that nature will take decades to reverse the catastrophic damage caused to the environment.

At least five other episodes of environmental accidents in the structures of the levees of the Samarco mining area, also known as Bento Rodrigues case, occurred and in four of these episodes, mud leaked out, killing fish and paralyzing the water catchment. In addition to these leaks, in 2014 the company was one of those responsible for the serious pollution in the capital of Espírito Santo State, Vitoria city, which resulted in a Parliamentary Investigation called Black Dust.

The loss recorded by Samarco in the year 2015 was due to the disaster with the Fundão dam in Bento Rodrigues, sub-district of Mariana (MG), since the expectation of fines and government requirements due to the disaster had been recorded as operating expenses. Losses amounting to US$2.48 billion were provisioned and a write-off of US$54.74 million was recorded about property, plant and equipment related to the dam. This implied a total of US$2.74 billion recorded in the line of other operational expenses, resulting in an operating loss of US$2.07 billion. According to Rostás (2016), this negative result was alleviated somewhat by the gains obtained by Samarco with exchange variations (US$285.29 million) and tax credits (US$479.69 million). That is, society also had a stake in the loss of Samarco, which explains the negative part of the government in the added value distributed in the fiscal year of 2015.

Since the accident, Samarco has been prevented by the Brazilian courts from carrying out its mercantile activities and has been trying to close an agreement to recover damages caused by the breakdown of the Fundão Dam in Mariana, to resume its operational activities that have already been paralyzed for three years.

The rupture of Dam I of the Córrego do Feijão in Brumadinho, Brazil

Three years after the rupture of the Fundão dam in Mariana, which left a serious environmental liability, another serious disaster occurred in the state of Minas Gerais, in the city of Brumadinho. This new environmental disaster, which occurred on Friday, January 25th, 2019, was triggered by Vale Corporation (Samarco's parent company) and has caused the death toll of at least 166 people and left 147 missing, presumed dead.

There seems to be indications that this mining company was aware of the operational problems in the tailings dam structure and reports reveal that it had not taken any kind of appropriate action to solve the defects, preferring to take the inherent risks, both environmental and social, given that the Brazilian laws are very permissive in criminalizing this type of problem (O Globo newspaper, 7/02/2019, p.4).

In addition to the high number of deaths and disappearances, the environmental damage caused poses threats to hundreds of animal and plant species, since the affected area was the Atlantic Forest. In addition, this will cause suffering to most of the local population who had the exploitation of rural tourism as their main economic activity, due to the natural beauty of the place (O Globo newspaper, 03/02/2019, p.9).

Founded on June 1st, 1942, Vale Corporation is a Brazilian private-sector, publicly traded Multinational Enterprise (MNE), headquartered in Brazil. It is present in approximately 25 countries of the five continents. Operating in the mining sector, it includes the manufacture of iron ore and the production of nickel, coal ore, copper, manganese, and ferroalloys. In addition, it engages in the mineral exploration and in project development. It also operates in other mineral sectors through investments in technology, logistics, and steelmaking.

Vale Corporation reports its sustainability responsibility information in accordance with the indicators of the Global Reporting Initiative (GRI) methodology and states in its annual sustainability reports that it is committed to social responsibility. In 2017, Vale Corporation disclosed its annual sustainability report including text and data related to GRI standard indicators and the report content fully meets the GRI standard requirements. The following table summarizes the main data referring to Vale, extracted from its published reports, in the last seven years prior to the accident. The 2018 financial and sustainability reports have not yet been released to the stakeholders and the users of the entity's financial statements.

Table 2: General Data of Vale's performance from 2012 to 2017

INDICATORS / YEAR	2012	2013	2014	2015	2016	2017
Added value to distribute (US$ million)	15,444.7	27,130.2	20,296.2	24,894.8	7,526.6	19,751.9
Shareholders (Dividends and Retained Earnings and Losses in period)	28%	0%	0%	-447%	57%	36%
Employees (Wages)	12%	17%	22%	96%	28%	14%
Government (Taxes)	12%	39%	26%	-140%	52%	21%
Lenders (Remuneration of Third-Party Capital)	35%	43%	51%	591%	-36%	28%
Number of employees (Amount)	85,305	83,286	76,531	74,098	73,062	73,596
Production (Millions of Tons)	320,0	310,7	332,4	358.6	348.8	366.5
Electric power consumption (GJ) GRI G4-EN5	No Info.	No Info.	No Info.	No Info.	No Info.	No Info.
Net revenue (US$ million)	42,983	43,953	35,124	23,384	271488	33,967
Net profit (US$ million)	5,197	406	353	-12,620	3,976	5,521

Source: Elaborated by the authors based on Vale's Annual Reports

INTERPRETATION AND ANALYSIS OF THE CASE

The disaster shows that Samarco and Vale corporations were not following their CSR to maintain the tripod of sustainability: economic, social, and environmental perspectives. The evidences show that these companies had not disclosed beforehand any relevant information about the real hazards or critical impacts of their operating activities. The conclusion that there is no consistency between what they think, say and do represents a distinct picture of how language use shows how companies think, feel and act (see Cosenza et al 2018). When the traditional view on CSR based on regulations (GRI, for example) is used, companies may avoid disclosing relevant facts or elements which are or might be affected by their activities.

Fragility of requirements and lack of control of the OECD Guidelines are evident about the performance of Samarco Corporation and its partner companies (Vale and BHP Billiton), considering that, on July 14th, 2015, that is, a few months before the tragedy of Mariana, PWC (PricewaterhouseCoopers) external audit issued an Independent Auditor's Limited Assurance Report on Information Related to Sustainability, which was included in Samarco's 2014 Annual Report. Based on the auditing procedures applied, nothing was detected that could discredit the sustainability information contained in the document in all its relevant aspects, in accordance with the Global Reporting Initiative (GRI-G4) guidelines.

In other words, that report explicitly corroborated the activity that degraded the environment and put the health and lives of people at stake in such a devastating way. The absence of any effective action questioning the result of this audit evinces the concession to the lack of transparency of the social responsibility reports. However, the most alarming fact is the way in which reparation for damages and accountability of those responsible for the tragedy have been treated, with the denial of reparation rights. All the main lawsuits against these three mining companies (Samarco/Vale/BHP) were momentarily stopped (El País, 2017). According to Thiago Alves, a member of the state coordination of Brazil's Movement of People Affected by Dams (MAB), in Minas Gerais, so far, the agreements reached have only benefited these companies.

This is in part because the agreements have been made between public authorities and Samarco's representatives, excluding the participation of those affected by the tragedy. The benefits obtained by Samarco include the drastic reduction in the amount of the indemnities to be paid and the number of repairs to be made. In addition, there is also the suspension of other related cases, including criminal ones, on the grounds of avoiding contradictory or conflicting decisions, and the permission for companies that have already rendered services to Vale to be able to evaluate the repair programs to be paid by the mining companies (Samarco/Vale/BHP).

In one of the agreements, an institution was created by the mining companies Samarco, Vale and BHP in order to repair the rights of the communities affected by the tragedy: the Renova Foundation. This institution also serves as a shield to protect these miners' image, not having complied with the legal agreements signed and still missing payment to product suppliers and service providers, imputing them about US$479.69 thousand in losses.

In December 2016, the task force of the State Prosecutor's Office that dealt with the disruption of the Mariana dam was replaced. One of the dismissed prosecutors said that the reason for the change was that they did not agree to the return of Samarco's activities until all environmental licenses had been clarified.

Faced with such facts, the group Ecologistas en Acción (2016) issued the following statement: We reject the ratification of the agreement and demand that a solution be built with the effective participation of the people affected and the prosecutors and attorneys of the Republic directly involved with the demand in the territories.

It is clear the submission of local interests to the interests of Samarco/Vale/BHP, as well as the bias in the treatment of this serious conflict in favor of the transgressing companies. After three years from the breakdown of the Fundão Dam in Mariana, many facts have been revealed about the problems caused by the disaster. One of them is the report of Cleary Gottlieb Steen & Hamilton LLP (CGSH), contracted to raise the causes of the accident, which concluded that there were obvious errors in the project, ignored to accelerate the spread of the tailings dam. Samarco, at least since 2013, would have been aware of the problems at the reservoir site, but ignored the risks. The level of environmental contamination caused by mudslides is still unknown, especially in relation to the region's flora and fauna. The task force called Rio Doce Mar (a group of 500 researchers from 24 Brazilian universities) is collecting materials to analyze and measure the consequences of the disaster.

In these three post-disaster years, the Renova Foundation (institutional arm of the Samarco / Vale / BHP group) has fully complied with only one of the forty-two programs of social and environmental reparation measures defined by the Interfederative Committee. On the other hand, there are indications of negligence by Samarco, which has been prioritizing the resumption of its operational activities, rather than repairing the damages caused to the environment and communities by the leakage of 32 million m³ of tailings and heavy metals from the dam of the Fundão, known as death mud. Although it has not yet repaired those affected, Samarco is strongly committed to resume the exploitation of the Fundão dam in 2019, using an institutional discourse of economic legitimation, based on the generation of wealth (taxes and exports) and employment.

In December 2017, Samarco obtained the Preliminary License (LP) and the Installation License (LI), granted by the State Secretariat of Environment and Sustainable Development of Minas Gerais (SEMAD), which allows the preparation of the mine for exploration. But to operate it, it will still need to get the Corrective Operational Licensing (LOC), which should happen by the middle of 2019. Since the rupture of the dam, Samarco has been acting more under pressure (civil society and justice) preventively in reducing the impacts caused by the disaster, than by its own initiatives. This indicates a clear prioritization of the economic aspect (profit) to the detriment of the socio-environmental one (people and ecosystem).

In the recent case of the deadly dam rupture at the Córrego de Feijão mine [the second major accident involving Vale Corporation in less than four years], this mining company is trying to use a more responsible discourse than Samarco did.

Unlike its stance on that first occasion, Vale Corporation has now adopted a new communication strategy, seeking to take responsibility for causing the event, and trying to show that it is taking the necessary emergency measures to remedy the impacts of the social and environmental damages caused. It should be noted that, at the time of the first event, Vale stated that it did not consider itself responsible for the Mariana disaster, but that Samarco was to blame. That is, it ignored its responsibility, not recognizing its joint guilt, even though it was Samarco's parent company. In addition, it argued that preventing Samarco from operating would be damaging to the economy, as it could exhaust its resources and jeopardize jobs, tax collection and generation of foreign exchange.

As it can be seen, despite the social and environmental impact of being very bad at first, Vale Corporation has been following a basic strategy of crisis management, using a discourse that softens the pressure of society, improving its image and reducing the wear and tear of its stocks in the capital market. For this purpose, it takes advantage of the soft environmental legislation in force in Brazil. In attending a public hearing in the Chamber of Deputies to discuss the rupture of the Córrego do Feijão mine dam, Fábio Schvartsman, the company's CEO, called the dam rupture an accident. According to him, Vale is a Brazilian crown jewel that cannot be condemned for an accident that occurred in its dam, no matter how big the tragedy (O Globo, 2019).

Even the Governor of the State of Minas Gerais, Romeu Zema, referred to the rupture of the dam as an "incident" and defended the acceptance of the proposal of agreement made by the mining company, reiterating that it is doing its utmost to minimize the damages caused and has not stopped taking on its commitments so far. However, the facts disclosed indicate that there was no eventuality in the dam, but a collusion between employees of Vale Corporation and the German company Tüve Süd in the issuance of reports that testified to the stability of the dam. According to O Globo newspaper, there is evidence in the documents collected that executives of the company were aware of its situation of instability and knew the risks arising from its possible disruption.

On February 15th, Brazilian authorities arrested eight employees of the mining company Vale Corporation, accused by state prosecutors of covering up weaknesses at the Brumadinho dam: two executives, two managers and four members of the team that checked the dam stability. According to the prosecutor's office in the affected southeast state of Minas Gerais, they were being held to determine responsibility in relation to crimes of aggravated homicide.

FINAL REFLECTIONS

This paper examines how some reference documents could guide the CSR strategies constructed by the MNEs. Globalization and development rationalize the enacted forcible expropriation of residents' resources and the destruction of the communities' way of life by outsiders and in this way, this can be understood as an ongoing process of colonization (Srikantia, 2016).

The research showed that the process of globalization, privatization and deregulation of markets has affected the structure of employment and income and led to a reduction in the participation of the public sector in the economy, either through the transfer of public companies to the private sector, or through the reduction of allocation of resources to social programs in fiscal austerity measures, worsening inequality.

In this process, the main promoters and beneficiaries are the large multinational organizations, mainly due to the easy access to the poor countries' markets and the total freedom of action before a regulation incapable of facing the new globalization challenges. The process appears with a low regulatory and protective capacity, while MNEs are subtracted from it, at least in the poorest countries. When moving to less developed countries, they take advantage of the unequal conditions of income and the precariousness of labor and environmental institutions with respect to their countries of origin. The impacts they generate in the environment where they have or had their activities impoverish the community and reduce the capacity of national states to fulfill their redistributive function, in a complex and intense process of concentration of wealth and deepening of social inequality and poverty worldwide.

However, in the OECD Guidelines there is no reference to the existence of a measure limiting the concentration of companies, which gives them great power of action. Nor is there any reference to the performance of companies in international trade, even though the expansion and transactions of MNEs are based on the deal of conditions of establishment and trade with the economies of the least developed and poorest countries. Likewise, there are no objective references to salary levels, nor to a decent salary, capable of meeting the basic needs of wage earners. Finally, there is no effective measure or program to stimulate the reach of greater equity in the distribution of income generated by companies' activities.

On the other hand, the OECD Guidelines subject the states' actions to ensure a situation that does not conflict with the interests of the MNEs installed there. In many respects, there are contradictions and ambiguity in the recommendations of such documents. Even a setback, when treating as voluntary the compliance with laws and determinations contained in universal documents such as the UDHR and the ILO conventions. In addition, they seek to weaken the states' power of regulation and supervision by transferring the resolution of conflicts to the National Contact Points, which have the final word on them, always considering the terms of the Guidelines above any other reference and keeping the secret of everything treated there. The contradictions and ambiguities of the Guidelines lead us to question the legitimacy of their content as a reference for MNEs to assume socially responsible action.

The asymmetry between the rights of MNEs, supported by the International Law, ratified by the Guidelines, and their own duties and responsibilities, which are shaped by the CSR current formation, is related to the problem of the asymmetry in international transactions.

The case study shown in this paper is a real example of how MNEs act and enforce their strategic decisions.

After three years of the environmental tragedy caused by Samarco, no culprit has been punished yet. What is concrete are the piles of documents drawn up from exhaustive hours of endless meetings of those affected with the private foundation, called Renova, created by the mining companies to manage social and environmental reparations. However, none of the mitigating actions in the areas of housing, education, and restoration of the ecological patrimony has effectively been accomplished (Nassif, 2017). The agreement (Environmental Recovery Program) signed in March 2016 between Samarco and its owners, mining companies Vale and BHP Billiton, with AGU (General Attorney of the Union) and the States of Minas Gerais and Espírito Santo, is still not backed up by Justice, due to the Federal Public Prosecutor's questioning about the lack of society´s participation (in the case of those affected by the disaster) in Renova's decisions. These facts only corroborate what has already been discussed in this paper about the submission of local interests to the interests of MNEs and bias in the treatment of conflicts with the actions of MNEs.

The tragic collapse of the Fundão tailings dam in Mariana (MG) brought severe social, ecological and environmental damages, including the loss of human lives and the destruction of communities living in the districts of Bento Rodrigues and Paracatu de Baixo, together with the damages caused to the cities along the River Doce basin, from its source in the State of Minas Gerais to its mouth and in the vicinity of the State of Espírito Santo.

Samarco issued a new sustainability report, called Samarco's 2015-2016 Biennial Report, where it presents the company's accountability, containing social, environmental and economic performance indicators for the two years, in compliance with the GRI G4 reporting methodology, detailing Samarco's activities in response to the tragic disaster caused by the rupture of the Fundão dam.

In this report, Samarco also refers to the organizational performance of the 10 principles of the United Nations Global Compact (UN, 2017). It is noted that, despite the serious problem caused by it, Samarco still persists in a discourse to legitimize its CSR, to the point of trying to justify its Voluntary Dismissal Program (VDP), which already cut 40% of its workforce in 2016. Samarco is also trying to promote the return of its industrial operations, before fulfilling the recovery of all the social, environmental and ecological impact caused by it. For this purpose, the company presented an institutional discourse in its latest report, emphasizing the fact that it would have the support of most of the population, besides the significant impact that this return to operations would have on the Brazilian economy, in view of being one of the largest exporters in Brazil.

Like what happened in the 2014 report, PricewaterhouseCoopers issued a Limited Assurance Report to accredit the information contained in the Samarco's 2015-2016 Biennial Report, in all material respects in accordance with the Global Reporting Guidelines Initiative (GRI G4). However, a quick search on Google or the Brazilian media shows that there is a discourse opposite to the scenario outlined in that company's report. Therefore, there is a gap between what Samarco thinks and says and what it does (see Cosenza et al, 2018). This dichotomy corroborates the concern raised in this paper's argument that, despite the existence of a multiplicity of reference documents for the promotion of CSR, the relevance of these documents is configured not only to serve as parameters and justifications for the activities of MNEs, but also to legitimize their performance, obtaining a kind of approval and economic benefit from the association of their names with the CSR.

In the case of Vale Corporation, the institutional situation is not very different. The company also claims to abide by all the rules and principles of social responsibility and sustainable development, always presenting itself as a company that values the environment and reaffirming its commitment to the principles of the United Nations Global Compact (UNGC) and the International Council on Mining and Metals (ICMM). Since the dam disaster, the company has been under a hurricane of legal and social problems, trying to act to overcome the challenge and the responsibility of becoming an active part on the solution of this most recent tragic and sad chapter in Brazil's social and environmental history.

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[ii] Doutora em Contabilidade e Finanças. Professor Associado da Faculdade de Administração e Contabilidade da Universidade Federal Fluminense.. Email: selmadios@vm.uff.br

[iii] Doutor em Contabilidade e Finanças, Professor da Faculdade de Administração e Contabilidade da Universidade Federal Fluminense. Email: jpcosenza@id.uff.br

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