

**Christoph Barmeyer & Eric Davoine**

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# 5. The intercultural challenges in the transfer of codes of conduct from the USA to Europe

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## INTRODUCTION

In the process of internationalization, multinational companies (MNCs) are confronted with the challenge of harmonizing corporate culture throughout their subsidiaries, following the widely held idea that a strong global corporate culture will strengthen the company's identity and image and reduce transaction costs within the MNC. Codes of conduct can be defined as instruments to implement a normative 'global organizational culture', proposing orientations for action in order to control and to regulate the employee behaviors and practices in every subsidiary. Previous studies underlined the US-American tradition of codes of conduct and showed a certain resistance in some European countries towards this kind of normative instrument. On the other hand, more and more European companies have adopted – and adapted – codes of conduct or ethical codes. We use a case study of a US-based MNCy to show how complex the intercultural challenges of the implementation of codes of conduct in European subsidiaries are. Our case study in different French and German subsidiaries of the same US company, through in-depth interviews with managers from different professional sub-groups and sub-cultures, shows a very differentiate picture of this resistance.

## CASE PRESENTATION

### **Codes of Conduct: An Instrument with North American Origin**

Corporate codes of conduct or ethical codes set out a formalization of detailed rules that aim to guide the employee in their decisions and daily behavior in and outside the company (Gauthier, 2000; Mercier, 2001).

The code of conduct represents a reference frame of values, principles and norms that must be integrated by the employee in the process of organizational

socialization. For the MNC, codes of conduct can also be considered as an instrument of control and regulation of subsidiaries or foreign suppliers. In providing this common reference frame to all employees, regardless of the national legal environment of local subsidiaries, the MNC is called on to play a greater institutional role, easily assimilated to 'a legislator' without state (Arthurs, 2006).

Lastly, codes of conduct can be considered as an instrument formalizing a normative 'corporate culture' that aims to define a common identity for the members of the organization, as well as orienting, conditioning or even regulating the actions and decisions of the members of the organization by putting routines, cognitive schemes and values at their disposal. In the MNC, the question of the normative 'corporate culture' is even more complex as it implies the adequacy of values, norms and practices often defined at the level of the parent company together with the different contexts of the subsidiaries, particularly with the contexts of the national cultures (Schneider and Barsoux, 2003).

As an instrument of behavior regulation through culture, codes of conduct or ethical codes are not 'culturally neutral' instruments: the instrument comes from the USA and takes its significance in the history and in the institutional and cultural context of the country. The study of Langlois and Schlegelmilch (1990) clearly shows that at the end of the 1980s, the phenomenon of ethical codes concerned more the North American multinationals than the European multinationals: only 41 percent of European multinationals in their sample have a code against 75 percent of the large multinationals of the USA. The most recent study of Kaptein (2004) on the 200 largest multinationals gives prominence to similar proportions as he observes that today 68 percent of the 59 largest North American multinationals have this type of code, against 45 percent of the largest German or French multinationals and 38 percent of Japanese ones. These percentages concern only multinationals and probably underestimate the differences between Europe and the USA that are probably more important for medium-size companies.

Diffused in the USA at the end of the 1970s following the Foreign Corrupt Practices Act (1977), codes of conduct or ethical codes are embedded in the American tradition of 'internal company regulations' specific to the nineteenth century. These internal regulations instituted the obligations of individuals towards a community through a contractual and explicit form that was necessary in the immigrant society of the USA (Seidel, 1995). In this American society of the nineteenth century, the company could be assigned an ethical role because individual and moral interest were tightly linked: be it in the community conceptions of Puritanism or in the ones of the individualistic utilitarian, morality was perceived as useful since it was a source of material success (d'Iribarne, 2002). In the USA, the company of the nineteenth century had thus a legitimate ethical actor that it seems to have conserved today; the

introduction of the Sarbanes-Oxly Act (SOX, 2002) has even strengthened this position.

For authors like d'Iribarne (2002) in France or Palazzo (2002) in Germany, the adoption of ethically formalized instruments as codes of conduct is bound to encounter difficulties and resistance in some European countries, because their cultural conceptions of ethics are different from North American conceptions. Codes of conduct can be defined as tools or organizational practices that are strongly 'value infused' (Blazejewski, 2006) and marked by an Anglo-Saxon universalistic perception of rules, an explicit and formalized communication style and the implicit agreement that companies can be legitimate setters of ethical rules (Palazzo, 2002).

### **Analysing the Reception of Codes in French and German Subsidiaries of AMIE**

In order to analyse these transfer processes, we carried out a study on the reception of the 2003 version of the code of conduct in the French and German subsidiaries of the US multinational corporation AMIE. The objective was to compare the reception of US 'value infused' instruments in two different European national environments that are very different from a cultural or institutional perspective (Barmeyer and Davoine, 2006).

AMIE is a company in the chemicals sector with more than 40 000 employees worldwide. The German and French subsidiaries, respectively, have about 1000 and 2500 employees and were founded in the 1960s. The headquarters of AMIE in the USA is in the Midwest. In Germany, the group had three units: a production site in the North of Germany resulting from the fusion with a German site from another group (about 300 employees), the German headquarters (with commercial and research and development (R&D) activities) and a center for packaging and logistics in the region of Frankfurt. In France, the group had two locations: a production site in the East of France (1500 employees) and the French headquarters along with the marketing and sales departments in the region of Paris. Since the beginning of the twentieth century, AMIE has developed a discourse centered on three fundamental values for its employees that has developed progressively into a code of conduct through the twentieth century.

The 2003 version of the code comprises 30 pages that precisely describe norms of professional behavior articulated around the three values. The code of conduct is conceived by the headquarters and presents behaviors to follow in different problematical situations (conflicts of interest, corruption, confidential information, respect of the environment, respect of others, health and security and so on). Employees in every subsidiary are supposed to sign the last page of the code at the same time as their work contract. This signature

represents a moral commitment of the employee with respect to their employer. In case of observed violations of the code, employees are supposed to inform the headquarters by using a hotline with a toll-free number. The codes of conduct are written and translated at the American headquarters and the human resources (HR) departments of the subsidiaries only have a right to see the quality of the translation. In addition to the code, each employee of the company is given another guideline of 'Good Management Practices' that specifically corresponds to their work field (sales, buying, R&D and so on) and which they must also take into consideration.

To analyse the reception of the code, we carried out a documentary study on the HR instruments used within the group and conducted a series of interviews with 21 managers and employee representatives of the German and French subsidiaries. We used different types of conceptual frames and collections of data to diversify the perspectives of interpretation and assure a 'triangulation' of the data (Yin, 1990). Half of the managers met were HR managers responsible for the implementation of the code of conduct. Half of the interlocutors met had an expatriation experience in the American parent company. Each interview lasted between 60 and 90 minutes and was structured following the same guidelines. Two German HR managers and two French HR managers were seen many times during the documentary study and before and after the series of interviews. Thus, about ten additional hours of interview were conducted in each country. Finally, a presentation of the results to the managers gave an internal validation to our conclusions. Given the international and intercultural context of the interactions in the field, the interviews in both countries were conducted in the mother tongue of the interviewee. The interviews were conducted and analysed by two researchers, one French researcher and one German, to minimize cultural biases, or even ethnocentric biases, of the observations (Marschan-Piekkari et al., 2004).

## CASE ANALYSIS

### **Critics Addressed to the Code Content and Formulation**

The first type of critics addressed to the code concern its content and its formulations: the code is strongly inspired by the North American legal frame and comprises a number of references to American laws. These references do not provoke open resistances within the local subsidiaries, but they indicate too explicitly the 'country of origin' of the instrument. This gives it an ethnocentric characteristic that makes it lose credibility and legitimacy in the face of the European subsidiaries' personnel. 'For example, some things are very US, "you must contact the lawyer"', the reference to the US boycott law, this makes

you smile because culturally speaking we are not in the same context, here, we do not call a lawyer for a single case' (French, Quality manager). 'The illustrations are very American, for example, the women, the minorities and the "colored people", and the style remains very naive. It makes everyone here laugh, notably the naivety of the example on sexual harassment' (French, Management controller).

For the French managers interviewed, the strong confinement of the North American culture within the code of conduct is viewed as exotic or even as inadaptable: 'For Americans, especially in the Midwest, they can exhibit [the code] in their bedroom. It is a very conservative culture, it fits them like a glove. It doesn't occur to them that it could be done otherwise' (French, Quality manager). The Midwestern approach poses a problem, especially to the French, who demand the freedom of interpretation in the respect of rules: 'We accept it, we sign, but the position is rather "OK, if at times I go over the top, it's manageable"' (French, Quality manager).

Our observations confirm Philippe d'Iribarne's (2002) thesis of a French cultural resistance to the moralistic dimension (the notion of catechism is regularly mentioned) of the codes of conduct: 'It is a little bit like what we learn in catechism. (... here in France) we can take some freedom with it' (French, HR manager). In the same manner, many testimonials insist on the notion of free will in the interpretation of the rule in which French employees and managers rely in particular circumstances:

France is another planet. There is such aggressiveness and permanent infringement of regulations, just watch simply the traffic on the roads ... During the meeting on 'compliance' with the management members [French], we received a call from the police which interrupted the meeting because ten cars were not parked properly outside. Sixty managers of all levels who speak of compliance and who are not parked properly ... (French, Operations manager)

In the German subsidiaries, critics have been conveyed to the code but in a more moderate manner than in French subsidiaries. A recurring reproach made to the parent company is not having allowed the participation of the local actors to its elaboration, which would be more in the spirit of the local institutional context.

The first version was not very easy to understand. There were so many mistakes and problems with the translation, and some contradictions with German labor law too. We reformulated some points, not necessarily because of the content but mostly because of the style, and send it back to the headquarters. But they did not want to see our point of view first. (German, HR manager)

Examples are very American and there is often a lack of credibility. For instance: 'you should not speak about your company at a private party'. Do you think that I

go to parties to speak with my friends about business? (German, Marketing manager)

The German managers met sometimes blamed the directness of the code ('I find that the code is often commanding in its manner to teach us things'), its moralistic intrusions in the private sphere ('As if we would go to a party just to divulge all the company secrets!'), rarely its North American identity: 'In the beginning, I found the red book to be very American. I found that it was a little exaggerated. The values gave me the same effect as the promotional messages of Nike or Coke. But it was just my first impression' (German, Administrative manager).

The individuals professionally socialized within a German subsidiary of an American group (be it in AMIE or in another), and managers with an expatriate experience in the USA were less surprised than the others, as they were familiar with this type of practice, which is common in North American groups.

### **The Conflicts Between the Code and the Legal Frame**

It is the dimension of internal regulation in the content that poses the most important problem because German and French labor laws foresee a specific procedure for the admission of an internal regulation that involves the participation of local personnel representatives. The French social law (disposal of Article L. 122–36 in the code of labor) foresees the consultation of representatives of the personnel, with a validation of the *Comité d'établissement* (French work council) on a '*règlement interne*'. The fact of going beyond this procedure makes this code an instrument of regulation without legal value. In the same manner, the German legal frame (*Betriebsverfassungsgesetz*, 2006) foresees that an internal set of rules must be accepted officially by the representatives of the *Betriebsrat* (German work council). Yet, such acceptance procedures would probably lead to demands of modification that are incompatible with the will of the parent company to implement the same unique code in all the subsidiaries.

In France as well as in Germany, the clause 'The collaborators breaking the law, the Code or the Good Management Practices, risk disciplinary measures that can lead to their discharge' leads to assimilate the code as an internal regulation that can serve as a basis for legal sanction. The 'Novartis jurisprudence' (family court of Nanterre, 6 October 2004) has since annulled the lay-off of an employee from the French subsidiary of the Swiss group Novartis, justified by an offence to the corporate code of conduct, by invoking the fact that the code could not act as an internal regulation because it did not respect legal procedure. This single clause of disciplinary measure in the event of an offence thus

renders every reference to the code as legally risky at the moment of sanctions and even of a negative assessment of the personnel. The code loses all form of legitimacy and its functionality of regulation: 'We are currently asked not to use it as a reference when speaking of behavior. But it is legally impossible to fire a collaborator by making a reference to the code because it is not an internal regulation ... it is putting the entire code in question' (French, HR manager).

The legal department of AMIE France asked that the page referring to the possible measures of sanctions should be modified. The US headquarters refused any local adaptation of the content that would make the document lose the essence of the unique standard applicable to all subsidiaries. Unable to modify the text of the code, the HR departments of the French and German companies chose not to follow the validation procedure of the internal regulation. Instead of this, they gave their employees the code accompanied by a letter from the president of the national subsidiaries stating that the code would be applied within the boundaries of the actual legal frame of the country. In the letter, the request to commit to the content was replaced by the request to confirm being informed of the content. This measure has enabled a high rate (around 97 percent in France like in Germany, according to HR departments), but not absolute, of returned signatures from employees having 'been informed' of the new version of the code. It is actually a pyrrhic victory: the US headquarters won and imposed an unchanged text, but the code has lost its meaning and finality as a regulation and standardization instrument.

### **Differentiated Local Resistances**

The legal frame has been used as an instrument of resistance by the actors of the subsidiaries, but not in a systematic manner within the different French and German sites. In France, only the representatives of the personnel from the Paris site, affiliated to a trade union, have asked that the code be put on the agenda in the committee meetings, following instruction from the national trade union after the Novartis jurisprudence. The representatives of the personnel from the production site in the East of France, without trade union representatives, did not react to the notice regarding the new version of the code: The work council members of the French production site, even if they often blamed the content of the code for being 'too American', did not oppose its diffusion. Considering the historically good industrial relations of the site, they felt the code could even serve as a support to restructure a corporate culture that was threatened to weaken with the recent expansion of the site.

In Germany, personnel representatives of the site in Frankfurt posed no problems and no demands. On the site in Frankfurt, the historic relations between employer and the employee representatives have been historically

good and the codes of conduct have existed since the beginning of the company.

However, personnel representatives of the site in Hamburg reacted very critically to the code and encouraged the personnel of Hamburg not to sign the letters from management. The site in Hamburg is marked by a more conflictual history linked to a merger with the dominating role of AMIE. The employees have been socialized before the merger on a site with a former strong German identity, where the German institutional framework of co-determination (*Betriebsverfassungsgesetz*, 2006) played an important role. The personnel representatives and employees of the site could feel their traditional rights threatened by a code of conduct that represents an instrument coming from another national context and from a parent company perceived as dominant. The historic relation between headquarter-subsidary of the sites played an important role to explain the different reactions towards the code.

## IMPLICATIONS FOR CROSS-CULTURAL MANAGEMENT

Our case study in the French and German subsidiaries of a US MNC shows that the implementation of codes of conduct is a difficult task when the code is implemented without adaptation and without consideration to the local cultural and institutional environment (Kostova and Roth, 2002; Tempel et al., 2006). Codes of conduct are intended to create international coherence and cultural standardization, but the generally hesitant and problematic reception process indicates that precisely the will of homogenization is the cause of disagreement. On the basis of our findings we can stress some implications for cross-cultural management.

The case study showed that a code of conduct or ethical codes, as HR-instrument of behaviour regulation through culture, is not 'culturally neutral': the instrument comes from the USA and makes sense in a specific institutional and cultural context. Our study confirms the former conclusions of d'Iribarne (2002) and Palazzo (2002) that codes can provoke critical reactions or resistance in a French or in a German context. Most of the employees of the French and German subsidiaries of AMIE do not react positively to the code, to its moralistic formulations, to some specific parts of the content (control of private life, whistleblowing and so on) and to some principles and values the code is based on, for example, the universalistic respect of rules (Trompenaars, 1993) and of standards set by an employer without discussion with the local workforce representatives. Many of them seemed to find the code meaningless because it did not fit with their values and their beliefs. At the same time, we observed that French and German managers with an expatriate experience within the headquarters were able to understand and to explain the US cultural

and institutional context in which the codes have been developed – and the problems encountered during the transfer in a new context. During the transfer process, these managers played an important role in explaining the intended meaning of the code to the French or to the German staff.

The case study has also emphasized that a code of conduct cannot be introduced with the same legal value in European subsidiaries. Codes of conduct are normative instruments of extremely fragile legitimacy when not adapted to the local frameworks of industrial relations. At the same time, the differentiated analysis of the local actor strategies also shows that resistance is not a cultural or institutional automatism: not all the subsidiary actors use the possibilities of the institutional context to resist the headquarters. The differences observed on the sites clearly show that the organizational context, the history and the identity of each site, as well as the individual strategies of local actors play an important role in the phenomenon of resistance. Our case confirms the need, in the analysis of the cross-cultural transfer of management instruments or organizational practices, of a differentiated approach that would take into consideration different levels of analysis (see, for instance, Geppert et al., 2003; Kostova, 1999): cultural proximity of the instrument ‘infused values’ with the local contexts, institutional adaptability of the instrument, organizational context and relationship between the parent company and the subsidiary, individual and collective strategies of local actors.

## RECOMMENDATIONS TO PRACTITIONERS

Codes of conduct, as an instrument that aims to regulate actions and decisions in subsidiaries, are instruments that are particularly difficult to be transferred in a standardized way. Managers should learn from the case that it is probably impossible to standardize a MNC corporate culture with the help of an instrument that is so profoundly embedded in the specific national legal frame and rooted in the cultural history of the parent company. Finding ways to adapt the instrument to local legal and cultural constraints is the first recommendation we can formulate to practitioners. Especially in the German context, we could identify a clear will of contributing to the code, discussing and adapting the code to local requirements and contingencies in order to develop a legitimated and adapted instrument. That would make the code lose its character of unique and homogeneous set of standards throughout the MNC, but it would make it more useful to control the local subsidiaries. In the current situation, without adaptation, the ‘implemented’ code has no legal value, neither in France nor in Germany, and can simply not be used legally as a reference frame of rules and standards.

A discussion on the local adaptation and on the local interpretation of the

code can be worthwhile for the relationship between parent company and subsidiary because it will reveal differences of perceptions, values and expectations, and let the actors make explicit their meanings of corporate values and orientations, and their meanings of conducts and (business) practices. It is not enough to present and train the elements of corporate culture as a 'simple' directive from the parent company. Rather, participants taking part in such a training measure should first be familiarized with the fundamental assumptions of the national culture of the parent company. These should then be related to the fundamental assumptions of the national culture of the subsidiary. Then the national cultural values as well as the corporate cultural values can be put into perspective. Such a discussion would bring the actors to share meanings of business conducts and situations, and would therefore impact more the constitution of the corporate culture than the signature of a locally meaningless document.

Managers with experience of both cultural environments of the parent company and of the subsidiary could play a major role in the discussion about adapting management instruments and organizational practices by explaining the meaning of the instruments and practices in the national context of the parent company. They could act as 'cultural translators' and help the MNC to minimize conflicts and misunderstandings that result from different ways of thinking, communicating and working within the subsidiaries. It is useful to have managers with an experience of the US headquarters in France and in Germany, but it would certainly be useful as well to have European expatriates or impatriates within the headquarters and discussing the relevance of ethnocentric instruments in the different regions of the world. In the end, international human resources development, especially professional training and expatriation policy, plays a crucial role in the transfer of management tools and organizational practices, especially when the practices are so strongly 'value infused' like codes of conduct.

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