

# Calling corporations to account

NO MORE  
BHOPALS

Protest on the 15th anniversary of the  
Union Carbide Bhopal disaster. New Delhi, India

The huge and growing social impact of transnational corporations requires that they take corresponding responsibility. While they would prefer to comply through voluntary initiatives, the public interest can only be fully served through stronger regulation and monitoring.

Until recently, transnational corporations (TNCs) seemed to be little concerned with social development. Governments, NGOs and international development agencies took the prime responsibility for social issues, while TNCs operated mainly in the economic arena. Corporations always had a social impact of course, at best generating employment, income and community services, at worst disregarding labour standards and the communities in which they operated. But they were rarely called on to have explicit social policies.

Much of that has changed. Today, TNCs find themselves embroiled in many of the most vexed social issues, from global warming to child labour to genetically modified foods. Indeed, almost every international development issue is assumed now to have a corporate dimension.

To some extent, this is a consequence of corporate success. TNCs straddle the globe as never before. Some 60,000 corporations now account for one third of world exports. Their annual turnovers dwarf the gross domestic products of many countries. In 1998 the top five corporations had annual revenues that were more than double the total GDP of the 100 poorest countries (table 5.1). In recent years the number of TNC affiliates has more than doubled, from around 200,000 in 1994 to over half a million in 1998. Over the same period, the sales of foreign affiliates increased from \$6.6 trillion to \$11.4 trillion. But the global reach of TNCs is extending not only

through direct control of affiliates, but increasingly through joint ventures, strategic alliances, sub-contracting and outsourcing. By the time of the Social Summit, it was clear that globalization and economic liberalization had granted corporations far greater freedom—without any commensurate increase in responsibility.

Another reason why companies have found themselves in the spotlight is the rise of environmental awareness and related NGOs. In the 1960s, environmentalism was a fringe pressure-group phenomenon, but by the end of the 1990s these ideas had pervaded the economic and political mainstream—making consumers more sensitive to problems such as deforestation, pesticides and pollution. They were also making people more aware of the ways in which their patterns of consumption were degrading and exhausting the planet.

Consumers are scattered and largely anonymous, but producers are easier to identify; and the largest corporations offer an obvious outlet for frustration. Their profile has been further raised by incessant flows of information. Floods of data, analysis and comment wash around most international companies and organizations. These information flows have peaked around a series of shocking incidents—including Union Carbide's gas leak at Bhopal; the Exxon Valdez oil spill in Alaska; and Shell's links with human rights abuses in Nigeria.

Today, corporations find it much more difficult to argue that their sole purpose is the pursuit of profit on behalf of shareholders, restrained only by the law of the land. They have to respond more broadly to many other stakeholders—employees, customers, suppliers, host communities, the general public—and to future generations. As "corporate citizens", they are being asked to assume responsibility for their actions.

Some corporations argue that this is nothing new. In the United States, during the early decades of the 1900s, companies such as Ford

and Carnegie took measures to improve their workers' living conditions and contribute to the communities in which they operated. In the United Kingdom, companies such as Lever Brothers and Cadbury built model housing estates for their workers. The largest corporations also established huge and respected philanthropic organizations—the Ford Foundation, for example, or the Wellcome Trust.

But most companies, most of the time, concentrated on their primary purpose of making

profits. They regarded the social context as incidental—the arena of governments, which were expected to provide the regulations to constrain corporate excess. In the industrialized countries, governments were well placed to do this. They had the resources, skills and sufficient autonomy to develop and enforce standards. But governments in developing countries were in a much weaker position: many were barely able to provide minimum services, let alone control powerful corporations.

**Table 5.1 – Corporate power**

Corporate revenues and gross domestic product, selected companies and countries<sup>a</sup>

| Rank                            | Company                          | Revenue<br>\$ billions<br>1998 | Country <sup>b</sup><br>(Approximate<br>GDP equivalent) |
|---------------------------------|----------------------------------|--------------------------------|---|
| 1                               | General Motors (US)              | 161.3                          | Denmark/Thailand  |
| 10                              | Toyota (Japan)                   | 99.7                           | Portugal/Malaysia                                       |
| 20                              | Nissho Iwai (Japan)              | 67.7                           | New Zealand   |
| 30                              | AT&T (US)                        | 53.5                           | Czech Republic  |
| 40                              | Mobil (US)                       | 47.6                           | Algeria   |
| 50                              | Sears Roebuck (US)               | 41.3                           | Bangladesh  |
| 60                              | NEC (Japan)                      | 37.2                           | United Arab Emirates                                    |
| 70                              | Suez Lyonnaise des Eaux (France) | 34.8                           | Romania   |
| 80                              | HypoVereinsbank (Germany)        | 31.8                           | Morocco   |
| 90                              | Tomen (Japan)                    | 30.9                           | Kuwait  |
| 100                             | Motorola (US)                    | 29.4                           | Kuwait  |
| 150                             | Walt Disney (US)                 | 22.9                           | Belarus   |
| 200                             | Japan Postal Service (Japan)     | 18.8                           | Tunisia   |
| 250                             | Albertson's (US)                 | 16.0                           | Sri Lanka   |
| 300                             | Taisei (Japan)                   | 13.8                           | Lebanon   |
| 350                             | Goodyear Tire & Rubber (US)      | 12.6                           | Oman  |
| 400                             | Fuji Photo Film (Japan)          | 11.2                           | El Salvador   |
| 450                             | CSX (US)                         | 9.9                            | Bulgaria  |
| 500                             | Northrop Grumman (US)            | 8.9                            | Zimbabwe  |
| Top Five Corporations (revenue) |                                  | 708.9 <sup>c</sup>             |   |
| 100 Poorest Countries (GDP)     |                                  | 337.8                          |   |

Notes: <sup>a</sup> A more accurate comparison of countries and companies would be based on value added as opposed to corporate revenue data, but not many companies include value added information in their annual reports. <sup>b</sup> Based on 1997 data. <sup>c</sup> General Motors, DaimlerChrysler, Ford Motors, Wal-Mart Stores and Mitsui.

Source: Utting, 2000 based on *Fortune*, 1999 and World Bank, 1999b

During the 1970s, pressure built up from governments, trade unions, academics and some NGOs. Techniques were developed to take on the multinationals. In 1974, for example, a powerful campaign against the harmful marketing of baby formula in developing countries was launched. But it was the environmental groups, such as Greenpeace, appealing to everyone's self-interest, who were to become the heavy hitters—confronting corporations with charges of deforestation, pollution and global warming, and mounting campaigns of “direct action”.

### From confrontation to partnership

These pressures came to a head in 1992 in Rio de Janeiro at the Earth Summit—an event that focused public and corporate minds as never before. The Summit's programme of action, *Agenda 21*, called on the world's governments, business leaders, international organizations and NGOs to work together to minimize the trade-off between economic growth and environmental protection. The Earth Summit also signified a change of philosophy and tactics—a shift from confrontation to co-operation. The UN in particular took a more conciliatory tone, closing its Centre on Transnational Corporations, which had been trying to design an international code of conduct. The UN turned instead to encouraging partnerships with business, and agencies like UNCTAD promoted developing countries' access to foreign direct investment.

TNCs also experimented with a different line: rather than waiting to be reined in by government regulations, they vowed to become more proactive—engaging in corporate self-regulation and working with their critics. In 1991 the International Chamber of Commerce presented a Business Charter for Sustainable Development, and in 1992 the founder of the Business Council for Sustainable Development published *Changing Course*, which called on

corporations to rethink their strategies. In the years that followed, a number of companies also came together in “green” business networks, some of which subsequently merged: one of the largest is the World Business Council for Sustainable Development, formed in 1995.

At the same time, TNCs have been forming various kinds of partnerships with NGOs. In 1996 Unilever, which is the world's largest buyer of frozen fish, entered into a partnership with WWF-International to promote sustainable fishing. Similarly, in 1998 British Petroleum allied itself with the Environmental Defense Fund, and General Motors started to work with the World Resources Institute. By the end of 1998, 17 Fortune 500 companies were working through the Pew Center on Global Climate Change, set up that same year to promote awareness of climate change and reductions in emissions of greenhouse gases.

Many corporations have also expanded their links with UN agencies. In 1999, some 15 TNCs participated in the preliminary phase of a UNDP project to establish a Global Sustainable Development Facility. In the same year, the International Chamber of Commerce endorsed a call by the UN Secretary-General for a compact through which corporations would voluntarily comply with UN standards on environmental protection, labour conditions and human rights.

### CODES AND VERIFICATION

These exercises in greater corporate responsibility take different forms, but they have a number of common features. Many are based on codes of conduct—sets of ethical principles and standards that guide a firm's social performance. Thus in 1997 the World Federation of the Sporting Goods Industry and the International Council of Toy Industries adopted codes relating to working conditions, and in particular the use of child labour.

At the same time, corporations are being



asked to adhere to more universal standards. The best-established are the ILO conventions, which cover a wide range of labour issues. But a number of other organizations have been working to create universal standards in new areas. Prominent among these is the International Organization for Standardization, whose members are national standards bodies. This organization produces a series of standards prefixed by ISO. The ISO 14000 series deals with environmental issues (box 5.1). The Forest Stewardship Council issues more specific standards on forestry.

National and regional bodies have also produced standards. In the United States, the Council on Economic Priorities Accreditation Agency, an interest group based in New York, has produced Social Accountability 8000, which is based on UN and ILO standards on human rights and labour conditions. The European Union also has an Eco-Management and Audit Scheme, whose standards are more rigorous than those of the ISO. Various industrialized and developing countries have eco-labelling schemes, such as the Blue Angel scheme in Germany and the Thai Green Labelling Scheme.

All these codes and standards need to be backed up with systems of verification. While a company's own inspectors should, in theory, be capable of doing this, they may not have much credibility outside their own offices. Some companies have therefore been hiring firms of independent auditors. This has offered a profitable new line of business for many international accounting and consulting firms, like Ernst & Young, KPMG and PricewaterhouseCoopers.

Such audits may achieve even greater credibility if they are backed up by independent NGOs. The toy company Mattel, in addition to setting up an independent monitoring committee for its factories, also invites local activists to interview workers.

This kind of auditing can result in official

documentation that can be extremely beneficial for a company's reputation and competitiveness. Those adhering to ISO standards, for example, can apply for certification, which is becoming increasingly important for trading internationally. And a number of auditing systems offer labels that can be attached to qualifying goods. One of the earliest of these, which originated in Germany, is the Rugmark, which certifies that carpets have not been produced by children. Garment makers have also become regular users of labels. And following the discovery of Pakistani children stitching soccer balls, many of the balls sold in the United States now carry a label: "No child or slave labor used on this ball".

These forms of voluntary regulation can bring many benefits, but they can also have damaging side effects, particularly in the developing world. Companies in richer countries may exploit certification as a disguised form of protection. Western companies get little sympathy if they claim that foreign competition is draining away their profits. But they are more likely to be heard if they argue that the competing goods are inherently flawed—of doubtful quality or produced under dubious conditions. Certification will also tend to favour the larger enterprises, which can afford it, over the smaller ones for which the processes and requirements may appear too complex. And eliminating one problem can sometimes result in something worse. Thus banning child labour sounds inherently virtuous; but unless child workers have a genuine alternative to that work, they may simply be displaced into even more dangerous circumstances.

### Corporate motivation

Why have companies started to take ethical considerations on board? The most optimistic view is simply that they have seen the light and chosen to behave more responsibly. Some individuals in corporate hierarchies certainly take

these issues seriously. And in some cases the corporation as a whole may adopt a more moral stance. Well-known examples are The Body Shop and Ben & Jerry's Ice Cream, which openly profess their ethical standards.

A more utilitarian explanation is that corporations have learned that ethical forms of operation also enhance efficiency, profitability and a company's competitive edge—a “win-win” strategy. Treating workers well is indeed likely to make them better and more efficient. And striving to produce goods in a more eco-efficient fashion could lead to savings and new opportunities, and thus add to productivity. Those professing ethical standards may also make this a selling point that allows them to capitalize on growing ethical or green mar-

kets. Some corporations thus claim to be pursuing a “triple bottom line”—profitability combined with environmental and social goals, the three legs of a tripod, each of which adds stability.

Unfortunately, the win-win arguments are often inflated. Many companies are unconvinced. Globalization is creating such a harsh competitive environment that they feel under more pressure to lower costs. Some go out of their way to seek locations where labour and environmental regulations are weak; others simply find reforming management systems too costly.

There is, indeed, an ethical goods market. In Europe the retail sale of fair-trade goods was worth a quarter of a billion dollars by 1995. But

#### Box 5.1 – Questioning corporate lingo

Corporate responsibility is generating as many new terms as it is questions about its effectiveness.

- **Certification**—An evaluation system designed to provide proof of a company's environmental or social performance. But who sets the standards and who does the certifying?
- **Code of conduct**—A set of ethical principles and standards designed to guide a company's performance. But does the code progress far beyond a piece of paper? Is it even shown to the company's workers, let alone enacted?
- **Corporate social responsibility**—The requirement that a company behave ethically toward the whole society—not just to shareholders, but to all stakeholders who have a legitimate interest in the company's activities. But does the assertion of responsibility have any impact in the real world? Does it merely involve statements of intent, or does it imply real changes in behaviour?
- **Eco-efficiency**—A process of adding even more value while steadily decreasing resource use, waste and efficiency. But does this involve technical fixes to clean up after the fact, while encouraging even greater production and consumption?
- **ISO**—The International Organization for Standardization is made up of national standards-setting bodies that may be governmental, private or hybrid organizations. ISO standards can be used by third parties as a basis for issuing certificates. But who is setting these standards, and are they being over-influenced by business and Northern interests?
- **ISO 14000**—A series of standards that establish rules for environmental management. But do companies complying with these standards do more than put in place an environmental management system? Do they actually reduce the impact of their activities on the

this remains a niche market. Research in Canada indicates that while 30 per cent of shoppers say they are willing to pay extra to ensure justice for producers, only 5 per cent actually do so.

A more realistic analysis would suggest that at the heart of most corporate ethical moves is “reputation management”—defending profits and market share by massaging a company’s image. Consumers may not be willing to pay more for ethically traded goods, but they are at least starting to demand an ethical component to the goods they normally purchase; and unless corporations satisfy this demand, or at least appear to, they will risk losses of sales or even consumer boycotts. In 1997, Nike was accused of paying low wages and maintaining

dangerous working conditions in its Asian factories, and was faced with a consumer boycott. While denying the charges, the company moved swiftly to protect its public image, joining with other companies to draw up a code of conduct and severing relations with a number of contractors.

But all companies with a high public profile are vulnerable. Although a Japanese lumber company cutting down forests in Myanmar, in league with the dictatorial regime, may not be too worried about its public image, companies with consumer brands to protect are more exposed. Companies such as Levi Strauss, Macy’s, Eddie Bauer and PepsiCo withdrew from Myanmar after being criticized for doing business there. And Texaco and Amoco did so as well.

environment? And should companies that produce environmentally dangerous products be able to obtain ISO certification?

- **Stakeholder**—Any group or individual who can affect, or is affected by, the achievement of an organization’s objectives. The stakeholders of corporations include not only employees and stockholders, but also neighbours, public interest groups, customers, suppliers and the general public. While corporations may claim to be accountable to everyone, do some stakeholders hold a much more powerful stake than others?
- **Triple bottom line**—The notion that companies should have not just one bottom line, which registers a profit or loss, but two others: one related to environmental protection; the other to meeting social needs. But are these three goals in any way equal, or are companies really just conducting business as usual by concentrating on financial aspects while paying lip-service to the others?
- **Voluntary initiatives**—A wide range of measures that are seen as an alternative to the command and control regulations set by governments. They go beyond following the letter of the law to include concerns for environmental and social protection. These initiatives can originate in industry, governments or NGOs, or a combination of two or more. But do these initiatives really imply serious changes to company behaviour? Are they a substitute for tighter legislation?
- **Win-win strategy**—A corporate strategy that enables a company simultaneously to improve its environmental and social record while reducing costs, and increasing competitiveness and profitability. But is such a strategy really available? Does greater social responsibility not inevitably cost money?

Those who do worry about timber extraction methods are more likely to be retailers. Thus campaigns against logging for years had little impact on companies or governments. But when European activists targeted retailers of furniture and timber products, they had much more success. Now chains like B&Q in the United Kingdom make a point of displaying their environmental credentials.

### Piecemeal progress

Perhaps it does not matter why corporations are behaving more ethically, providing that they are actually doing so. At present, however, it is very difficult to judge how far their behaviour has changed. The evidence tends to be anecdotal, piecemeal and often contradictory.

The vast amount of writing and publicity surrounding corporate social responsibility and best practices would suggest that big business has turned over a new leaf. But many companies continue to behave perversely. Through mergers and acquisitions, downsizing, outsourcing, and the “feminization” or “flexibilization” of employment, many corporations are laying off workers, weakening unions and shifting to sites and systems with lower social and environmental standards.

Only a small proportion of companies have introduced codes of conduct. And these tend to be narrow in scope. Typically they highlight issues to which consumers are particularly sensitive, such as environmental protection and child labour, but avoid other issues, such as freedom of association or the right to strike. One study of the codes of Canadian corporations operating abroad, for example, found that the majority made no reference to the most basic human rights.

Even when they produce promising codes, industry associations or corporations may not take the matter much further. In 1996, UNCTAD reviewed the guidelines set by 26

industry associations for their member firms and found that most did not ask the signatories to commit themselves to any of the recommended principles or activities, and only a handful required any kind of compliance. Many companies that are aware of such codes seemed reluctant to share the detailed information with their employees or consumers.

This reluctance also extends to adherence to other internationally agreed standards, such as the ISO 14000 system on environmental management. By the end of 1998, only 7,887 certificates had been issued worldwide. By way of comparison, the ISO 9000 series, which is concerned with quality management systems, generates around 50,000 certificates in one year alone. The limited commitment to environmental standards is also evident in those concerned with forestry. By early 1999, only 15 million hectares of forests had been certified by bodies accredited by the Forest Stewardship Council—less than 1 per cent of the world’s forests outside protected areas.

### INFLATED CLAIMS

For many corporations, one of the main purposes of a more ethical stance is to create a friendlier public profile. But inevitably, in an era dominated by advertising and public relations, rhetoric tends to spin well beyond reality. Many companies publish reports that declare their ethical credentials. But few offer much hard information. A 1994 study by UNEP of 100 “pioneering” companies found that only 5 per cent of their reports contained meaningful performance data.

Even when companies are being monitored and certificates are being issued, it may not be clear what is being measured. Some forms of environmental certification relate more to policies and management procedures than to their effects. They may certify that the company has an environmental policy but say nothing about its actual impact—the extent to



which a company has reduced its emissions, say, or its use of energy.

In some cases, companies have gone out of their way to make more specific claims that look weaker on closer inspection. After the Bhopal disaster in 1984, the international pesticide industry, for example, made efforts to establish ethical credentials through its Responsible Care programme and Safe Use projects in several developing countries. The International Union of Food and Agricultural Workers investigated the impact of one such project in Guatemala. It found that although one third of a million people had indeed been trained in pesticide use, the training itself was limited and did not extend to agricultural workers, who are the main users. The companies targeted primarily the farm owners who bought their products, and paid little or no attention to alternatives to pesticides, such as integrated pest management—which could suggest that the project was also a marketing exercise.

Company claims that they are taking great strides to improve working conditions and wages also need to be examined closely. Nike and Reebok claimed that in 1998–99 they had raised the wages of their sports-shoe workers in Indonesia by 40 per cent. According to the NGO Clean Clothes Campaign, however, the companies had failed to note that an inflation rate of 70 per cent offset any gain.

The problem of inflated claims also affects other aspects of corporate responsibility. A seemingly positive development of recent years involves the rapid growth of ethical investing. Social investment funds now manage over \$1 trillion, roughly one half of which is in socially screened portfolios. But a recent analysis by Credit Suisse and the journal *Tomorrow* shows that the most popular stocks targeted by ethical or green mutual funds are not the pioneers of sustainable business but the big technology companies like Cisco Systems, Intel and

Microsoft, stocks favoured by the traditional investing world.

Perhaps the most inflated claim of all is that companies are contributing to sustainable development. Initiatives that are couched in the language of sustainable development usually only involve measures for environmental protection. Even the World Business Council for Sustainable Development has, until very recently, tended to concentrate its energies on promoting eco-efficiency. Of particular concern are the all-too-common cases of companies that have double standards—cultivating their public image through, say, an environmental initiative while disregarding human rights (box 5.2).

A strategy to promote sustainable development presumably implies a multi-faceted agenda that embraces progress in a number of different directions, including the following.

- **Environmental protection**—in the interests of all the earth's inhabitants and of future generations.
- **Employee empowerment**—with full labour rights and participation.
- **Economic performance**—sustained profitability, employment and fair wages.
- **Ethics**—with codes of conduct, transparency and stakeholder accountability.
- **Equity**—fair trade, and fair treatment of stakeholders.
- **Education**—dissemination of information and participation in campaigns.

Companies that espouse sustainable development seldom address these issues comprehensively. Indeed, the most basic criticism of these corporate measures is that the changes are taking place at the margins, leaving the fundamental problems undisturbed.

Few corporate environmental initiatives involve a major change of policy. Energy companies could, for example, be paying much more attention to solar power. BP Amoco did

## Box 5.2 – Jekyll, Inc. and Hyde Ltd.

Corporate behaviour is often confusing. Companies may behave responsibly in some parts of their business, while lapsing in others.

- **Aracruz Celulose**—This Brazilian producer of bleached eucalyptus wood pulp supplies 20 per cent of the world market. The company is frequently praised for its efforts to promote sustainable development through its tree-planting, harvesting and pulp-production methods. But it has also been accused of displacing people and food production, and destroying local fauna.
- **Asea Brown Boveri**—The Swiss-Swedish engineering company sponsors the Global Sustainable Development Facility and is a world leader in developing eco-efficient technologies. It has been criticized by environmentalists and human rights campaigners for its involvement in controversial hydro-electric projects, including the Three Gorges project in China and the Bakun Dam in Malaysia.
- **Chiquita Brands**—The US banana corporation has attempted to improve its environmental reputation by complying with standards that allow it to use the Eco-OK label. Trade unions claim that the company not only continues to pursue environmentally damaging practices, but also restricts such basic human rights as freedom of association of workers.
- **Dow Chemical**—According to UNDP, Dow abides by “the highest standards of human rights, environmental and labour standards and norms”. According to the Transnational Resources and Action Centre, an NGO, Dow is probably the world’s largest source of the toxic chemical dioxin and has regularly exported pesticides unregistered in the US for use in developing countries.
- **General Motors**—The US company is the world’s largest TNC. General Motors is involved in a number of environmental initiatives, and in 1998 entered into a partnership with the World Resources Institute to define a long-term vision for protecting the earth’s climate. At the same time, it supports the Global Climate Coalition and the Business Roundtable, organizations that oppose the Kyoto Protocol designed to reduce greenhouse gases.
- **Mitsubishi Group**—The Japanese conglomerate has a number of environmental projects and cultivates an image of responsibility. However, it has also been identified as a leading destroyer of tropical forests and was, until recently, under fire for plans to build a huge salt plant in an environmentally sensitive area of Mexico. The Mexican government cancelled this project in early 2000.
- **Novartis**—The Swiss life-science corporation is frequently praised for its social awareness and philanthropy. But its active promotion of genetically modified crops seems to contradict the precautionary principle established at the Earth Summit.

indeed expand its interests in solar energy in 1999, with the purchase of Solartex for \$45 million. But this fades into insignificance when compared with the rest of the company's activities and acquisitions. Greenpeace has estimated that for every \$10,000 BP Amoco spent on oil exploration and development in 1998, it spent only \$16 on solar energy. And when companies like Shell initiate multi-stakeholder dialogues to discuss their latest proposals for oil extraction, the issue is generally how the project should be implemented rather than whether it should go ahead at all.

Many critics argue, therefore, that there is little of significance happening—that the TNCs are using publicity to paint over an unsavoury reality—not with whitewash but with greenwash.

### Alternatives to confrontation

The most powerful influences on corporate behaviour are external—government regulations, consumer pressure and civil society activism. But the corporations argue that the

best way ahead is less confrontational. Rather than having stronger regulations to contend with, they prefer to engage in corporate self-regulation or voluntary initiatives. And instead of waiting for NGOs and others to criticize them, they want to enter into partnerships.

### VOLUNTARY INITIATIVES

Corporations are not the only ones who would prefer light regulation. The general ideological and political drift in the 1980s and 1990s has been to reduce state intervention and leave corporations free to create as much wealth as they can. Developing country governments are generally competing to attract foreign direct investment—and regulations on TNCs might impede those efforts.

The United Nations has also been moving in this direction. Not only did it close its Centre on Transnational Corporations, it also abandoned efforts to draft various codes of conduct. In fact, of some 30 codes proposed in previous decades, only a few were ever adopted.



David Guttenfelder, Associated Press AP

Clearing up the Niger Delta? Oil pipes running through a neighbourhood near Port Harcourt, Nigeria

These included codes relating to the marketing of breastmilk substitutes, pesticide use and medical drug promotion.

The UN also seems to be moving toward the view that the World Trade Organization should not be overly concerned with social and environmental issues. When the Secretary-General met representatives of big business gathered at the World Economic Forum in Davos in 1999, he implied that the UN would support the idea of a trade and investment regime largely free of social and environmental clauses. In return, he called on the business community to take voluntary initiatives to uphold human rights, and labour and environmental standards (box 5.3).

Such initiatives would be welcome. But their effectiveness should not be overestimated. Codes of conduct tend to be stronger on rhetoric than delivery. Even when they are put into practice, they can degenerate into closed systems, opaque to external inspection or participation. And there will always be the temptation to greenwash.

Codes also tend to have less impact in developing countries. In industrialized countries, they can be reinforced by sophisticated and well-organized consumer surveillance, as well as by independent verification, but the chances of effective consumer and civil society pressure in the poorest countries are slim. More plausible at present is that consumer activists

#### Box 5.3 – The UN-business Global Compact

“There is enormous pressure from various interest groups to load the trade regime and investment agreements with restrictions aimed at reaching adequate standards in human rights, labour and environment. These are legitimate concerns. But restrictions on trade and impediments to investment flows are not the best means to use when tackling them. Instead, we should find a way to achieve our proclaimed standards by other means. And this is precisely what the compact I am proposing to you is meant to do. Essentially there are two ways we can do this. One is through the international policy arena. You can encourage States to give us, the multilateral institutions of which they are all members, the resources and the authority we need to do our job....The second way you can promote these values is by tackling them directly, by taking action in your own corporate sphere....You can uphold human rights and decent labour and environmental standards directly, by your own conduct of your business....But what, you may be asking yourselves, am I offering in exchange? The United Nations agencies...all stand ready to assist you, if you need help, in incorporating these agreed values and principles into your mission statements and corporate practices. And we are ready to facilitate a dialogue between you and other social groups, to help find viable solutions to the genuine concerns that they have raised....More important, perhaps, is what we can do in the political arena, to help make the case for and maintain an environment which favours trade and open markets.”

Kofi Annan  
World Economic Forum, Davos  
31 January 1999

in the rich countries will have an effect on corporate behaviour in poorer ones by pressuring TNC headquarters to impose stricter standards on their affiliates and suppliers in developing countries. To minimize the risk of consumer boycotts or tarnished reputations, some TNC headquarters are now adopting a more hands-on approach throughout the supply chain. What this can mean, however, is that the poor countries are following an agenda set by Northern consumer groups or NGOs, who are well intentioned but often fail to work in tandem with Southern NGOs. It may also mean that smaller companies in developing countries, which lack the managerial and financial resources needed to comply with stricter standards, are being replaced by larger companies in the networks controlled by TNCs and the big Northern retailers.

### PARTNERSHIPS

In an age of liberalization, governments have ceded many of their functions to the private sector and civil society. Similarly, in the field of corporate responsibility there have been efforts to move away from regulation and confrontation and instead to build new partnerships between governments, the private sector and civil society.

This has a pragmatic appeal, and not just to the corporations. Even the most determined activist can eventually grow weary of issuing condemnations from outside corporate fortresses. Better, perhaps, to engage directly and have some influence over day-to-day activities.

Partnerships create new opportunities, but also new risks. One of the most familiar is that of co-optation, as activists find they have been absorbed into the corporate machine. Many NGOs have now become consultants, selling technical advice and other services. As one activist put it: "Having had to work so closely with chief executive officers of corporations, I am beginning to sound like one. At some point

a new generation of NGOs is going to have to come along to check on people like me".

International organizations face similar problems when they try to work with corporations. They may, for example, find themselves involved with an unsuitable partner. Some UN agencies seem to have lax criteria and guidelines for selecting partners, and can quickly find themselves the target of NGO criticism for having teamed up with companies associated with environmental and human rights abuses. UNDP has been criticized for its choice of partners for the Global Sustainable Development Facility. UNHCR has also come under fire for some of its relationships within the recently established Business Humanitarian Forum (box 5.4).

In addition to the risks that may arise from new alliances, there is also the danger that corporations will gain excessive influence over existing regulatory bodies—achieving "institutional capture". This is a familiar problem for many governments, which often find that most of the experts in a particular field, even the academics, have corporate links of one kind or another. At the international level, there is concern that some standard-setting bodies are unduly influenced by big business—for example, the International Organization for Standardization, the WTO and the Codex Alimentarius Commission (a joint FAO/WHO body on food safety and quality standards).

Some of these new partnerships will also be at the expense of old ones. There have always been splits in NGOs and pressure groups between the radicals and the reformers. Now they have another opportunity to diverge. Some will choose to work with corporations; others will reject any kind of link.

Another danger of NGO-business partnerships is that of marginalizing trade unions. Not so long ago, trade unions were the main force motivating improvements in working conditions. But trade unions in the industrialized



countries have suffered a steep drop in membership and influence, and in the developing countries TNCs often manage to shut them out completely. Developing closer relations between NGOs and business may appear constructive and conciliatory; but if this also serves to marginalize trade unions, it will be removing one of the main engines of social progress.

### From hard to soft

With the arrival of newer and “softer” approaches, the corporate responsibility scene nowadays is more complex and ambiguous. But it would be a mistake to replace the hard with the soft. The world needs both. Most corporations will ultimately only respond to tight regulation and enforcement, and close monitoring by NGOs, trade unions and consumer groups.

Yet there is a danger that corporate self-regulation, as well as various partnership arrangements, are weakening the role of national governments, trade unions and stronger forms of civil society activism.

There is also a danger that the debate about how and by whom corporations should be regulated is diverting attention from another key mechanism through which corporations have historically contributed to social development: taxation. Corporate social responsibility should not just be about standard-setting and compliance. It should also be about companies paying—rather than avoiding—taxes to welfare-minded states. As indicated in chapter 2, much of the rapidly escalating wealth of corporations is not being tapped by the state for social purposes.

In some cases effective controls on corporate activities can be achieved through various

#### Box 5.4 – The watchdog on the Web

The online magazine *Corporate Watch* has aired NGO concerns about some UN-business partnerships.

“...We write today to express our disappointment at seeing the name of UNHCR associated with that of Unocal Corporation...and with Nestlé as members of the Business Humanitarian Forum....The arrangement with the BHF allows Unocal, a company that is currently involved with one of the worst human rights situations in the world, to enjoy the benefits of associating itself with the UN without actually taking steps to protect human rights. The arrangement affords Nestlé, a company still targeted by consumer boycotts in 18 countries because of its violations of WHO’s International Code of Marketing of Breastmilk Substitutes, the benefits of associating with WHO’s sister agencies....Unocal is a partner, with French-based Total and the Myanmar Oil and Gas Enterprise, in the construction of the Yadana gas pipeline in Burma. EarthRights and other organizations have documented horrendous human rights abuses associated with the construction and maintenance of the pipeline.”

Excerpt of a letter signed by Instituto del Tercer Mundo, Institute for Policy Studies, Third World Network, Earth Rights International, Transnational Resource and Action Center, Brazilian Institute of Economic and Social Analysis, and International Baby Food Action Network.

forms of co-regulation. Governments and businesses, for example, can work together through negotiated agreements to design and implement programmes that both sides consider useful—but that retain an element of state sanction. Another possibility is civil regulation, through which businesses comply not only with legislation but also with standards set and monitored by civil society.

Effective and relevant standards not only need to be devised, they also require updating and improvement. Thus environmental regulations will need to move beyond “end-of-pipe” monitoring, which tries to cope with pollution, to measures that avoid generating pollutants in the first place. And future regulations will also need a stronger information component—requiring companies to publish data in a standard form so that performance can be accurately monitored.

Independent verification will be an increasingly important issue (box 5.5). The existence of new groups to check on corporate activity widens the scope of verification, but may also

cause some confusion. The fact that the NGO or accounting firm involved may be formally independent may not be a guarantee of capacity for rigorous critical appraisal. In addition, the lack of hard data and clearly defined indicators to measure corporate performance may compromise the monitoring process.

The proliferation of codes of conduct and reporting systems has created a rather chaotic environment that calls for much greater harmonization. Corporate environmental and social standards need to be measured against internationally defined benchmarks—such as those in *Agenda 21*, and in ILO and human rights conventions.

When codes are well defined, whether binding or not, they can also be an important tool for global citizens’ action. The 1981 Breastmilk Substitutes Code, for example, targeting companies like Nestlé, helped to raise and maintain public awareness, and build public pressure on companies to change the marketing practices that threatened people’s health and lives in developing countries.

#### Box 5.5 – What makes a good voluntary initiative

The NGO Taskforce on Business and Industry (ToBI) highlights the essential components of a productive voluntary initiative. It should:

- **Be substantive**—It must solve problems not avoid them. And its ideas and language should be unambiguous and undiluted.
- **Offer incentives**—It must have ways of encouraging companies to adopt and accept the measures.
- **Be fully incorporated**—Social and environmental values need to be completely integrated into all policies and operations.
- **Be independently verified**—To gain credibility among all stakeholders, performance needs to be monitored independently.
- **Invite participation**—All stakeholders should be drawn in, especially those directly affected by a company’s operations.
- **Be transparent**—Companies need to provide adequate and timely information.
- **Offer full accountability**—If necessary, it should be backed up by effective regulations.

This is an area in which the United Nations could play a more constructive role. International governance in this field has been relatively weak since the 1980s, but is showing some signs of revival. The Commission on Sustainable Development, for example, is currently supporting a review of voluntary initiatives aimed at defining a coherent set of guidelines. In August 1999, the Sub-Commission on the Promotion and Protection of Human Rights—an independent panel of experts linked to the UN Commission on Human Rights—agreed to a three-year inquiry into the activities of transnational corporations, and to consider the establishment of a code of conduct based on human rights standards. UNDP's 1999 *Human Development Report* calls for a multi-lateral code of conduct, arguing that TNCs are "too important for their conduct to be left to voluntary and self-generated standards".

Outside the UN system, in January 2000 the OECD published a revised set of draft guidelines on TNCs that proposes some new standards on corporate governance, workplace conditions and environmental safeguards. Although not legally binding, these guidelines, once approved, would be expected to apply to the activities of TNCs based in the OECD and in Brazil, Argentina and Chile. Some NGOs and private foundations are also taking a lead with initiatives such as SA 8000, mentioned earlier, and with international standards for ethical trading (the Ethical Trading Initiative) and sustainability reporting (the Global Reporting Initiative).

If international organizations, whether UN agencies, the ISO or the World Bank, are to play a greater part, they can only do so legitimately if they operate in a transparent fashion, opening their doors or decision-making processes to participation from civil society, and particularly to representatives from developing countries.

This also requires that the organizations of civil society be prepared to behave in a more

cohesive and co-operative fashion. For example, tensions have arisen between environmentalists and trade unions. Many trade unions need to pay more attention to the environmental agenda. And some environmental NGOs pay little attention to labour standards. If these NGOs focused more on social issues, they might get more support from trade unions for, say, forest certification schemes. Furthermore, where democratic trade union structures exist, NGOs should attempt to co-operate with, rather than substitute for, unions on issues relating to workers rights.

Left to their own devices, TNCs are likely to fulfil their responsibilities in a minimalist and fragmented fashion. Their strategies may be conducive to economic growth and the stability of their operating environment, but not necessarily to sustainable human development. They still need strong and effective regulation and a coherent response from civil society.