

occasional paper no. 5
world summit for social development

*transnational corporations:
impediments or
catalysts of social
development?*

by eric kolodner



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geneva, november 1994

preface

The World Summit for Social Development, to be held in Copenhagen in March 1995, provides an important opportunity for the world community to focus attention on current social problems and to analyse the dimensions, roots and directions of social trends. In particular, the agenda of the Summit specifies three areas of concern: the reduction of poverty, the generation of productive employment, and the enhancement of social integration. UNRISD work in preparation for the Summit focuses on the last of these: as countries confront the seemingly intractable problems of social conflict, institutional breakdown and mass alienation, the topic of **social integration** has assumed increasing importance in public debate.

The UNRISD Occasional Paper series brought out as part of the Social Summit preparatory process takes up a range of issues relating to social integration. This paper examines the relationship between transnational corporations (TNCs) and social development.

Although the impact of the operation of transnational enterprises has long been the subject of much discussion and controversy, this debate has witnessed a qualitative change over the past 5 to 10 years. The fall of the Soviet empire, the decline of social welfare programmes in some European states, and the predominance of a free market ideology have all tilted this debate in favour of transnational corporations. Furthermore, the increasing mobility of capital as well as the growth of international and bilateral trade agreements have expanded the powers and privileges of these multinational entities, while minimizing their social responsibilities. This changing environment is particularly notable in many developing countries where governments, once extremely suspicious of foreign corporations, are now exerting efforts to attract TNC investment.

Despite this shift in thinking and policy, there still exists substantial disagreement regarding the extent to which transnational corporate activity promotes positive social development. On the one hand, proponents for TNCs argue that these entities advance social goals by providing jobs, paying taxes used for social programmes, building an industrial base, earning foreign exchange, transferring technology, raising living standards and contributing to charitable causes. On the other hand, advocates of enhanced corporate responsibility note that TNCs have been linked to interference in sovereign affairs, continued disparities in wealth, poor

workplace conditions, corruption, transfer pricing policies, and a “downward harmonization” of labour, consumer and environmental standards.

This paper assesses the two sides to this debate. It specifically examines the relationship between TNCs and social development with respect to their effects on employment, consumer safety and health, the environment and transfer of technology. Furthermore, it discusses the current expansion in corporate rights and suggests some methods by which governments and NGOs can foster corporate social responsibility. Finally, it argues that, as prevailing ideologies shift and transnational corporations extend their global reach, the international community must ensure that the extraordinary economic and political power of these entities is harnessed to the goals of social development.

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November 1994

Dharam Ghai
Director

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introduction: the prevalence of transnational corporations

The proliferation of transnational corporations (TNCs) constitutes one of the most important economic, political and social phenomena of the last two decades. As these entities expand their global reach, integrate national economies, rearrange the international division of labour, consume environmental resources, manufacture homogenized products for a world market, and deliver goods and services across increasingly irrelevant national borders, they irrevocably and fundamentally transform the society in which we live.

During the past 25 years, the universe of transnational corporations has diversified and expanded dramatically. While only 7,000 TNCs existed in 1970, there are now 37,000 parent transnational corporations with over 200,000 affiliates worldwide.¹ Furthermore, there exist hundreds of thousands of non-equity links such as subcontracts, licensing agreements and strategic alliances between parent companies and foreign entities.²

Spanning the globe across all major sectors of the economy, transnational corporations are particularly prevalent in the petroleum refining, electronics, chemical, pharmaceutical and automobile industries.³ Furthermore, 90 per cent of all TNCs are located in a few industrialized nations⁴ with their foreign affiliates located in a relatively small number of host countries.⁵ Despite the geographical concentration of parent companies and their affiliates, however, a growing number of TNCs are chartered in developing countries.⁶

Transnational corporations have been expanding not only numerically and geographically, but also financially. From 1980 to 1992, TNC sales skyrocketed from 2.4 trillion dollars⁷ to 5.5 trillion dollars.⁸ Currently one third of all global trade is composed merely of financial transactions within the same transnational corporation.⁹ TNCs affect 86 per cent of the world's land that is cultivated for export crops, control over 60 per cent of aluminum mining and sell 90 per cent of the world's agrochemical products.¹⁰ Some transnational corporations are more financially powerful than national economies: annual sales of the Royal Dutch/Shell Group oil company are twice New Zealand's gross domestic product (GDP); annual sales of the

British tobacco company, BAT Industries, are equivalent to the GDP of Hungary; the German electronics firm, Siemens AG, has annual sales that exceed the combined GDP of Chile, Costa Rica and Ecuador; and the annual sales of both General Motors and Mitsubishi are more than double the GDP of Hong Kong or Israel.¹¹

Transnational corporations possess particular influence over global economic and social development through their role in foreign direct investment (FDI). One of the most important forces for international trade, technology transfer and economic growth, FDI from transnational corporations increased remarkably during the 1980s from 910 billion to 1.7 trillion dollars.¹² FDI outflows originate almost exclusively from a few large TNCs headquartered in industrialized nations.¹³ However, developing countries now account for nearly one third of FDI inflows — a total of 70 billion dollars to developing countries in 1993.¹⁴

While the age of the transnational corporation has certainly arrived, it is less clear whether the financial power of these entities is being directed in a socially productive and equitable manner. This paper addresses this important issue by examining the complex relationship between TNCs and social development. In its annual **Human Development Report**, the United Nations Development Programme (UNDP) has enumerated various indicators of social development, including infant mortality rates, access to safe water, educational attainment, longevity rates, standards of living and purchasing power. Transnational corporations have only moderate effects on many of UNDP's indicators. This paper will primarily focus on the relationship between TNCs and social development with respect to their effects on employment, consumer safety and health, the environment and transfer of technology.

Part 1 of this paper discusses the direct and indirect effects of TNC activity on social development. Part 2 analyses the current balance between TNC rights and responsibilities. Finally, part 3 describes some governmental and non-governmental efforts designed to foster TNC social responsibility.

part 1: the role of tncs in social development

Recent transformations in the global economy, the structure of corporate activity, geopolitical relations and prevailing economic ideologies have radically restructured the relationship between the transnational corporation, society and the state. Such trends have undermined the delicate balance of power between corporate management and labour as well as between corporations and governments. As union membership declines throughout the world and as governments prove increasingly incapable of effectively regulating corporate activity, TNCs reign supreme.

Responsibility for fostering social development and regulating corporate activity has traditionally fallen under governmental purview. However, changing economic conditions and the predominant free-market ideology have rendered governments less able to fulfil their responsibilities. In some Western countries such as Germany and Sweden, which have traditionally maintained a strong welfare state, governments have been forced to begin dismantling social programmes. In the former Soviet-bloc countries, struggling governments are hoping that privatization and a scaled-back public sector will solve the social and economic problems of these former communist nations. And in many developing countries, which have historically been most distrustful of foreign corporations, governments are now actively seeking FDI and repealing laws that attempted to ensure the promotion of social welfare through the domestic activities of TNCs.

Proponents of the free market assert that these changes are crucial to achieving social development. They hail transnational corporate activity as a powerful vehicle for providing developing countries with the resources and models necessary to foster indigenous enterprises and to abandon inefficient business practices. Such advocates note that transnational corporations advance social development by providing jobs, paying taxes used for social programmes, building an industrial base, earning foreign exchange, transferring technology, raising living standards and contributing to charitable causes.

It is unlikely, however, that such optimism is warranted. Advocates of enhanced corporate responsibility note that TNCs have been linked to interference in sovereign affairs, continued disparities in wealth, poor labour conditions, corruption, transfer pricing policies, and inadequate consumer and environmental protection. Furthermore, they argue that the increased leverage of transnational corporations has allowed them occasionally to play nations and communities off against one another in an effort to receive the

most advantageous benefit package — a process that produces a “downward harmonization” of labour, consumer and environmental standards. Finally, they assert that the expanding capabilities of TNCs to transfer money, factories, capital and technology throughout the world render more difficult the reconciliation of the long-term public interest with short-term interests of private business enterprises.

This section analyses both sides to the debate. It argues generally that transnational corporations possess substantial potential for fostering social development but currently play only a moderate role in this process.

direct effects of tncs on social development

employment

▫ *quantity*

As large corporations continue to “downsize” and as unemployment rates in many nations remain quite high,¹⁵ it is increasingly apparent that TNCs could play an important role in social development as providers of jobs. Currently, however, transnational corporations directly employ only 2 to 3 per cent of the world’s workforce — approximately 73 million jobs, 12 million of which are located in developing countries.¹⁶ Although TNCs employ only a small fraction of the world’s workforce, they are particularly important employers in some sectors and nations. For example, transnational corporations account for one fifth of all paid employment in non-agricultural sectors¹⁷ and are particularly important in manufacturing industries in which technology is important.¹⁸ In the mid-1980s, 50 per cent of employed individuals in Ghana and Tunisia were working in transnational corporations.¹⁹ TNCs engaged in manufacturing account for over 20 per cent of all employment in developing countries such as Argentina, Indonesia, Malaysia and Sri Lanka.²⁰

While transnational corporations directly employ approximately 73 million people, this figure does not accurately portray their actual impact on employment levels. On the one hand, it is important to note that direct employment by transnational corporations will sometimes displace jobs from national firms, although the extent of the effect of such a displacement will

vary across industries and countries.²¹ Furthermore, many TNCs have been reducing their aggregate totals of employees as they become increasingly capital intensive and fire workers to minimize costs.²² On the other hand, transnational corporations not only employ individuals directly, but can also indirectly generate jobs by establishing backward and forward linkages within a domestic economy. For example, TNCs indirectly produce employment by purchasing goods and services from local suppliers and subcontractors as well as by widening access to markets and providing resources that can be used in further production within a host economy.²³ It is estimated that the indirect employment TNCs generate is at least equivalent to figures for direct employment.²⁴

Therefore, transnational corporations are responsible for the employment of a very small proportion of the world's workforce — approximately 5 per cent. This figure is even less significant when compared to the assets such enterprises control. That is, while TNC activity might account for 5 per cent of world employment, transnational corporations control over 33 per cent of the globe's productive assets.²⁵

▫ quality

While transnational corporations directly and indirectly employ approximately 5 per cent of the world's labour force, the quality of these jobs is mixed. TNC employment practices in developing countries have received particular criticism. Advocates for transnational corporations, however, note that TNCs at least provide jobs to individuals who otherwise would have no source of income. Furthermore, in both industrialized and developing countries transnational corporations almost always provide higher wages, safer work conditions and better benefit packages than do local firms.²⁶ There are three reasons why TNCs often provide higher wages: (a) they tend to be concentrated in higher-skill sectors within developed countries; (b) in developing countries, there exist significant disparities between transnational corporations and local firms with respect to technology, economies of scale and management techniques; and (c) TNCs seek to deflect nationalist sentiment against foreign economic entities.²⁷

However, while transnational corporations usually offer superior wages in absolute terms, they sometimes pay a lower wage relative to workers' productivity.²⁸ In other words, while employees of transnational corporations might earn more money in absolute terms than employees in comparable local firms, they simultaneously share less in the profits of their employing enterprise. Thus, while advocates for TNCs argue that they pay higher wages than do local firms, it is important to note simultaneously that they maintain a less equitable distribution of resources. Officials in transnational corporations might respond that they are obligated only to pay the prevailing wage for a particular skill category. However, a strong moral case can be made that, under some circumstances, an appropriate and responsible wage level requires not only an examination of absolute figures, but also

wage/profit ratios. The extent to which a firm might have a responsibility to adhere to higher standards than local firms will be discussed in more detail later.²⁹

Although transnational corporations generally treat their workers better than do local firms, their actions are hardly beyond reproach. In fact, their labour policies in developing countries with respect to subcontractors and export processing zones are often inexcusable. Working primarily in light manufacturing industries such as textiles, electronics, footwear and sporting goods, TNC employees in developing countries often work very long hours under hazardous conditions and receive little pay and no compensation for overtime. They possess low unionization rates, limited job security and few opportunities for training or advancement.

Examples of such working conditions are abundant. A recent fire at a Thailand toy factory killed 188 employees because management did not maintain the sprinkler system and had locked the workers inside the plant.³⁰ In Bangladesh and China, clothing companies such as Calvin Klein and Liz Claiborne use subcontractors offering no worker rights and sometimes employing bonded labourers.³¹ And in Indonesia, women sewing sneakers for Reebok work over 60 hours per week while earning only 80 dollars a month — approximately the price of one pair of shoes.³² While Reebok officials might note that they are at least paying the legal minimum wage, a more accurate assessment of their wage scales requires an examination of Reebok's wage/productivity levels compared to other local firms.³³ Furthermore, it is important to compare Reebok's wages with those of other similarly situated transnational corporations. In fact, while operating in the same Indonesian environment, Gillette Company pays its workers three to four times the legal minimum wage and provides its employees with American-style retirement and health benefits.³⁴

Transnational corporations often attempt to evade responsibility for their treatment of employees overseas by asserting that only their subcontractors establish and supervise working conditions. However, TNCs remain at the top of these subcontracting pyramids, provide the majority of work orders such factories receive and, therefore, possess significant influence over their operations. While transnational corporations might not directly employ Thai toy makers or Indonesian sneaker sewers, they benefit from the exploitation of workers, and their hands are hardly clean.

Despite these disheartening examples, there does exist a potential for TNCs to foster social development through employment — as demonstrated in the interesting case of foreign automotive companies in Brazil.³⁵ When transnational automobile companies arrived in this South American country, they not only imported technology and management techniques but also unintentionally imported another resource that proved important to Brazil's social and political development: foreign unions. The United Auto Workers (UAW) began to train their Brazilian counterparts in organizing and

bargaining techniques. In the late 1970s and early 1980s as Brazil was experiencing labour unrest, foreign automotive companies were the first to recognize the need to deal with Brazilian unions.³⁶ When the Brazilian military government demanded that the Ford Motor Company fire striking workers, the company refused and subsequently established the country's first union-based, worker representation system; other auto subsidiaries soon followed suit.³⁷ By 1984, labour had established a political party, and some observers were crediting the auto industry with playing an important role in Brazil's political liberalization.³⁸ While nobody asserts that automotive TNCs **intentionally** fostered positive change in Brazil, this case study demonstrates that sometimes social development can occur simply as an unintentional by-product of TNCs' profit-maximizing activities. Unfortunately, however, the role that transnational corporations play in employment and social development in developing countries almost always resembles the afore-mentioned experiences of Indonesia or Thailand, not the experience of Brazil.

consumer issues and health ramifications

Transnational corporations also affect social development through their vast production of goods and services which often impact the health of consumers. For example, their involvement in pharmaceuticals, insurance, information technology, health care services, pesticides and agribusiness can affect consumer health. This expansive and sophisticated global marketplace that TNCs fuel can sometimes provide significant benefits. Transnational corporate research and development, for example, can improve nutrition and health standards throughout the world. Transnational financial corporations provide increasingly important investors such as pension funds and mutual funds with an expanding menu of diversifiable investment opportunities. Finally, on a lighter note, TNC advances in technology and distribution networks grant some Scandinavian consumers access to exotic fruits even during their snowbound winters.

While the global marketplace is a boon to those who can afford to shop from its shelves, most individuals are not so financially fortunate. "About two-thirds of the people on earth cannot connect most of the glamorous products they see on billboards and on televisions with their own lives of poverty and struggle."³⁹ Furthermore, through their sophisticated marketing techniques, TNCs can significantly influence consumer preferences, and they often promote products and lifestyles incompatible with ecological sustainability and poverty reduction. "The expanding cornucopia of globally distributed goods is largely irrelevant to the basic needs of most people in the world."⁴⁰ Products that could potentially improve health and nutrition levels, such as pharmaceuticals, are often priced out of reach, especially in developing countries.

Even when consumers in developing countries can afford the pharmaceuticals that transnational corporations manufacture, ironically such drugs can be harmful to their health. Transnational corporations often market and sell to developing nations pharmaceuticals that have been banned in their home countries, although they are aware that studies have demonstrated the adverse health effects of their products. For example, US-based Sterling Winthrop uses a subsidiary to sell Dipyrone, a drug banned in 23 countries, to 20 developing countries under the brand name Conmel; the German Hoechst Company sells this drug in Thailand.⁴¹ Problems also arise when TNCs sell outdated, poorly labelled or mislabelled pharmaceuticals to developing countries. For example, when the Upjohn Drug Company sells Kaopectate, a drug for adult diarrhoea, to developing countries, they print warning labels only in English and, therefore, the product is sometimes used on infants — with harmful ramifications.⁴² A recent study found that two thirds of 241 pharmaceuticals manufactured by US-based transnational corporations and sold to developing countries had severe labelling deficiencies that failed to provide doctors with the information necessary to prescribe the drug safely and effectively.⁴³

Transnational corporations also adversely affect consumer health and nutrition levels by selling to developing countries pesticides that have been banned in their home nations. One quarter of all pesticides exported by TNCs from the United States in the late 1980s, for example, were chemicals banned, regulated or withdrawn in the United States.⁴⁴ While sales of banned drugs exclusively harm consumers in developing countries, sales of banned pesticides also harm consumers in industrialized nations through a process called the “circle of poison”. Transnational corporations sell these pesticides to farmers in developing countries who use such products to spray their fruits and vegetables before exporting their produce back to the industrialized countries in which the banned pesticides originated. For example, the US-based chemical company FMC Corporation sells the Marshal pesticide, which is banned in the United States, to two dozen developing countries. Such countries use the pesticide on alfalfa and Thai rice and export these goods back to the United States.⁴⁵

Other toxic chemicals TNCs use in their production process also cause health problems. For example, transnational corporations manufacture most of the world’s chlorine, which is used as a base for potentially harmful chemicals such as PCBs, DDT and dioxins; these chemicals can lead to birth defects as well as reproductive, developmental and neurological damage.⁴⁶ TNC involvement with the production and use of asbestos, volatile organic compounds and radioactive waste materials can also generate health problems.⁴⁷

Transnational corporations sometimes further lower health levels in developing countries by marketing and selling infant formula as a substitute for breast milk. In the 1980s, consumer groups organized a boycott of infant formula manufacturer Nestlé because of its marketing and distribution

practices for this product.⁴⁸ Although this boycott successfully altered the behaviour of Nestlé, other companies continue to distribute infant formula in a negligent and harmful manner. For example, US-based American Home Products, whose Wyeth-Ayerst subsidiary makes infant formula, markets this product in the Philippines as superior to breast milk. Poor hospitals take money from the company in exchange for promoting it to new mothers.⁴⁹

Finally, transnational corporations adversely affect consumer health by marketing and selling tobacco products. Cigarettes cause three million deaths each year, and tobacco companies have been accused of adding nicotine to their products to ensure that consumers remain addicted to this drug.⁵⁰ Furthermore, tobacco giant, Phillip Morris, has been accused of covering up studies demonstrating the health hazards in smoking and of marketing to children through their “Joe Camel” campaign which employs a cartoon character appealing to kids.⁵¹ As industrialized countries increasingly offer warnings and enact restrictions on smoking, TNCs have begun actively marketing their tobacco products to the developing world. Tobacco companies assert that advertising merely persuades smokers to switch brands, and does not influence their choice to smoke in the first place. However, in the year after South Korea opened its market to American cigarette brands, smoking among teenagers increased from 18 per cent to 30 per cent.⁵²

Transnational corporations assert that concern over the adverse effects of their consumer products is misplaced. They argue that individuals who buy TNC goods are merely exercising their free market choices and that efforts to limit such choices infringe on individual autonomy. Furthermore, they assert that attempts to prevent TNCs from selling to developing countries pesticides and pharmaceuticals banned in their home countries constitute an imperialistic infringement on the sovereignty of these nations; each government should be able freely to determine the consumer standards under which its citizenry will live.⁵³ However, transnational corporations are aware that many developing countries do not have the governmental resources necessary to conduct tests on the health ramifications of TNC products and that many consumers in such nations do not possess the information necessary to make truly informed choices. TNCs’ invectives against enhanced regulation actually stem not from their concern for individual autonomy or national sovereignty, but rather from a desire to maximize profits. The worldwide sales of infant formula total 8 billion dollars a year; American companies alone sell 20 billion dollars worth of cigarettes abroad and 4 billion dollars worth of pharmaceuticals to developing countries each year; finally, American companies sell annually to developing countries 750 million dollars worth of pesticides banned in the United States.⁵⁴

environmental resources

Transnational corporations can adversely affect social development in two ways through their consumption of environmental resources. First, TNCs engaged in extracting industries such as mining and oil production have been accused of plundering natural resources in developing countries. Many transnational corporations first bought mineral-rich lands when developing countries were economically too weak or poor to exploit these resources themselves.⁵⁵ Long-term contracts permit transnational corporations to continue to mine these resources without offering just compensation to developing countries.⁵⁶ After extracting such resources at low cost, TNCs then process them in developed countries before shipping them back to developing countries where they are sold at inflated prices — a process that generates little benefit for the developing country from which the resources were originally mined.⁵⁷

Transnational corporations can also negatively impact social development through their degradation of environmental resources. These entities have been responsible for some tragic environmental disasters over the past 20 years, for example, Union Carbide in Bhopal, India,⁵⁸ Exxon's Valdez spill off Alaska,⁵⁹ and Texaco in Ecuador.⁶⁰

TNCs have been linked to a host of environmental problems. They generate 50 per cent of greenhouse emissions, which are responsible for global warming.⁶¹ They are also the primary producers and users of ozone-depleting chlorofluorocarbons (CFCs).⁶² Furthermore, transnational corporations are significant polluters of air, land, ground water, wetlands and the ocean.⁶³ Finally, through their commercial logging and mining activities, TNCs contribute to deforestation. In the mid-1980s, for example, foreign corporations controlled 90 per cent of logging in Gabon and 77 per cent in the Congo.⁶⁴ Such logging and mining activities possess negative externalities such as rapid run-off of rain water leading to flooding and loss of topsoil; TNCs often do not internalize these social costs and farmers are usually too poor to buy the land from the forest owners to prevent the occurrence of such negative externalities.⁶⁵

Although transnational corporations can certainly impede social development through their environmental practices, the relationship between TNCs and the environment is exceedingly complex. Critics do not maintain that transnational corporations should abstain from consuming environmental resources, but rather that their activities should promote **sustainable** growth and development. While TNCs usually follow lower environmental standards in developing countries than in industrialized nations, there is some evidence that their environmental practices in developing countries are more responsible than local firms operating in such countries.⁶⁶ However, critics assert that, because transnational firms possess greater resources and better access to research and development, TNCs bear an enhanced responsibility to promote environmentally sustainable practices.⁶⁷ Under pressure from citizen organizations, some companies have begun to follow more environmentally responsible policies. For example,

Dow Chemical, a once maligned polluter, has established quarterly meetings where environmentalists brief senior management for one-and-a-half days each session. Managers' salaries are pegged to environmental goals, and the company cut toxic releases 32 per cent between 1988 and 1991. IBM has also implemented some laudable environmental practices including the rewarding of employees for technical innovations that help it comply with environmental standards. Finally, AT&T has won 18 environmental awards since 1990.⁶⁸

However, while these three companies have begun to follow more environmentally responsible policies, the majority continue to plunder the mineral resources of developing countries and consume environmental resources in a destructive and non-sustainable manner — practices which certainly hamper prospects for social development. General Electric and DuPont are more typical of companies involved in environmental issues, both possessing abominable records. DuPont, for example, was responsible for 254 million pounds of toxic chemical releases in 1991 in the United States alone, and has demonstrated little desire to improve its environmentally destructive practices.⁶⁹

indirect effects of tncs on social development

economic growth

Transnational corporations can potentially promote social development through their activities that generate economic growth. One observer has written:

“As per capita income increases, as levels of education increase and as the growth in communications technology increases awareness of alternative lifestyles, there are rising expectations with regard to matters such as housing, welfare, recreation, and medicine. These public welfare functions have traditionally been considered the province of public agencies... But as corporations are intimately involved with the growth of the economy, they are perceived by many as the most effective levers for change.”⁷⁰

There exists some evidence that foreign direct investment by TNCs and the foreign exchange that TNCs provide can improve the economic performance of the countries in which they operate.⁷¹ “TNCs impact the process of economic growth by influencing the amount and quality of new capital formation, transfer of hard and soft technology, development of human resources, and the expansion of trade opportunities.”⁷²

Furthermore, as case studies of Taiwan, Province of China, and South Korea demonstrate, economic growth can foster social development under some conditions. In Taiwan, for example, miraculous economic growth has been correlated with increased educational levels, improved health conditions, longer life spans, better housing conditions, enhanced civil liberties and political liberalization.⁷³

While in theory TNCs can promote social development by fostering economic growth, in practice this relationship rarely exists for two reasons. First, it is unclear whether transnational corporations are actually responsible for economic growth in host countries. In the two most notable cases of recent economic transformation, South Korea and Taiwan, transnational corporations played a negligible role.⁷⁴ Furthermore, TNCs can actually hamper indigenous economic growth by driving local entrepreneurs out of business, importing key goods and services, remitting a majority of the profits to their home countries, and transferring fees and royalties to parent companies located outside the host economy.⁷⁵

Second, even if TNCs do improve a host country's economy, the relationship between economic growth and social development is tenuous. Although the global economy continues to grow annually, such growth is hardly curing problems of poverty, unemployment, disparities in wealth, or other issues of social malaise. In Côte d'Ivoire, for example, while TNCs might have helped to foster aggregate economic growth from 1960 to 1975, they did little to promote social development: unemployment increased, distribution of income widened and nationals increasingly lost control over the country's industrial capacities.⁷⁶ In sum, while transnational corporations can be the engines of economic growth under some circumstances, the economic power of TNCs is rarely harnessed to achieve the ends of social development.

transfer of technology

Transnational corporations can also indirectly affect social development through the transfer of technology to host countries. Transferred technology can assume many forms including hardware such as machinery and equipment; software such as blueprints; process and product design; and

training in management, marketing and quality control methods.⁷⁷ Furthermore, such technology can be transferred through a variety of methods including joint ventures, foreign direct investment, licensing agreements, turnkey plants, technical assistance, subcontracting arrangements and non-equity investments.⁷⁸

TNC technology transfer can potentially provide host countries with a number of benefits, including enhanced economic growth.⁷⁹ “More advanced foreign technology transfer has acted as a trigger mechanism for modern economic growth in some developing countries which are on a lower level of economic and social development.”⁸⁰ Technology transfer can advance economic growth in a variety of ways: facilitating the production of new goods with higher value-added content; increasing exports; increasing output for a given level of input; and improving management techniques.⁸¹ There also exists some evidence that transfers of technology can help develop a particular host country industry. For example, the expansion of foreign-owned TNC semiconductor plants off the coast of Singapore has spurred the emergence of the domestic semiconductor industry within Singapore itself.⁸²

TNC transfer of management skills can also potentially advance human resource development — an important component of social development. “Through its employment of indigenous professionals and managers, the multinational corporate subsidiary transmits knowledge and experiences that are less available locally.”⁸³ Transnational corporations can also foster human resource development through their research and development practices, particularly in developing countries. Such practices can potentially increase the skill levels and technical capabilities of employees in developing countries.

Although in theory transnational corporations can foster social development in developing countries by transferring management skills as well as research and development (R&D) capacities, in practice their record in this field is mixed. First, governments in developing countries have historically criticized TNCs for not employing enough nationals in management positions and, therefore, transferring only minimal management skills. Second, while large transnational corporations spend billions of dollars on research and development annually, they conduct only a small fraction of such R&D outside industrialized countries.⁸⁴ Third, when transnational corporations do conduct R&D in developing countries, they often merely adapt existing technology to local conditions — a process that generates little impact on deeper indigenous research and innovation capabilities (know-why).⁸⁵

Finally, TNC transfer of technology policies in developing countries have received criticism on numerous other grounds. For example, there is some evidence that the technology transnational corporations transfer is too costly for developing countries, does not create local linkages, is protected too exclusively through patents, is often capital intensive and therefore

inappropriate for labour-intensive developing countries, and produces goods for affluent classes while failing to meet local needs.⁸⁶

transnational corporations and taxes

Transnational corporations can also indirectly foster social development through their provision of taxes to the state, because governments often use these revenues to finance social welfare programmes. Such taxes can be substantial. For example, in 1989, foreign affiliates of US-based transnational corporations provided 15.5 per cent of government revenues in Guatemala, 12.2 per cent in Peru, and 4.6 per cent in Mexico.⁸⁷ In 1992, Phillip Morris paid 4.5 billion dollars in taxes to the United States government alone, including billions more in employee and excise taxes.⁸⁸

While transnational corporations do pay substantial taxes under some circumstances, they engage in a variety of practices that intentionally deprive governments of tax revenues they are due. The ability of transnational corporations to move funds and goods rapidly between countries allows them to manipulate intracompany payments and avoid taxes — a process known as transfer pricing. For example, a German company manufacturing in France where tax rates are high sells its product at below-market values to a subsidiary in Puerto Rico where taxes are low. From Puerto Rico, the company sells to wholesalers or retailers, claiming a loss in France and huge profits in Puerto Rico where it pays minimal taxes. Countries have attempted to combat transfer pricing tactics through unitary taxation policies under which a government calculates a company's taxes on the basis of its global profits instead of on the basis of profits it declares within the country's borders.⁸⁹ However, companies have successfully lobbied against unitary taxation policies in most jurisdictions.

transnational corporations and economic and social equality

With the income of the richest one fifth of the world's population averaging 50 times that of the poorest one fifth,⁹⁰ disparities in wealth characterize most countries. In many nations the gap between poor and rich is widening.⁹¹ Although transnational corporations may not be responsible for the conditions which originally precipitated such inequities, their activities with respect to foreign direct investment, consumer issues and employment often exacerbate the situation. While TNCs certainly produce benefits for some people of the world, the bulk of the population is left out of the system that these enterprises help to perpetuate. As two analysts have recently written regarding the form of "globalization" transnational corporations are creating:

"The inhabitants of a penthouse apartment on the Upper East Side of Manhattan are drawn by taste, style, habit, and outlook into a closer relationship with similarly situated citizens of Brussels, Rio, or Tokyo, and further and further away from poorer, less mobile residents who may live a block or two away."⁹²

Transnational corporations can exacerbate existing disparities between the poor and rich, for example, through their activities affecting consumers. With over four fifths of the globe's purchasing power concentrated in countries possessing only one quarter of the world's population,⁹³ transnational corporations structure their marketing and distribution systems to provide goods and services only to economically prosperous locations. Approximately two thirds of individuals in the world are unable to enjoy any of the consumer benefits transnational corporations can provide.⁹⁴ Lawyers in Frankfurt and Hong Kong will always present better profit-making opportunities than will sharecropping farmers in India or Mali.

Commercial banks sometimes exemplify the ways in which TNC consumer-related activities can reinforce existing inequities in developing countries. First, such financial institutions usually conduct transactions only with the government and the élite, refusing to extend credit to those citizens who need it most; second, their loans have historically resulted in huge debts which developing countries have financed at the expense of social programmes; and, third, commercial banks have often served as conduits for legal and illegal capital flight.⁹⁵

Furthermore, transnational corporations can perpetuate an inequitable social and economic system through their employment practices. As a United Nations report recently summarized:

“The emerging pattern of integrated international production may indeed be accentuating disparities between certain core activities and jobs that are dispersed throughout a firm’s international production system...[creating] a growing periphery of jobs, many of which are less stable and less highly remunerated than those at the core.”⁹⁶

For example, while the Japanese might manufacture computer components in Thailand, they refuse to export jobs in the crucial value-added stage of the process, i.e. the manufacture of the computer chip; while NIKE employs Indonesian women to sew shoes together, the company does not introduce these employees to the value-added process in which NIKE infuses its patented technology (the “Pump”) into the product. Thus, as companies integrate their production strategies, they reinforce regional disparities in skills and income — a process some advocates of developing countries have termed economic “recolonization”.⁹⁷

the special case of corporate charity

The previous sections indicated that transnational corporations can sometimes advance components of social development. It is important to note, however, that there was no evidence in this discussion that TNCs felt obligated to provide such benefits; instead, when transnational corporate activities did further social development, these positive consequences were merely **unintentional** by-products of TNCs’ profit-maximizing activities. That is, the provision of jobs, promotion of health through consumer products, transfer of technology, supply of tax revenues and advancement of economic growth constitute only unintended positive externalities of TNCs’ true *raison d’être*: the accumulation of money.⁹⁸ This section discusses the primary methods by which transnational corporations may **intentionally** undertake commitments to advance social development and integration: direct corporate giving programmes and corporate-sponsored foundations.⁹⁹

Although there do not exist data specifically examining TNC charitable activities, the extent of such activities is evident in statistics based on corporate charity in the United States, the country with the strongest

tradition of corporate philanthropy. In 1993, over 1,700 corporate foundations and over 600 direct corporate giving programmes operated in the United States.¹⁰⁰ Direct corporate giving totalled 6 billion dollars and corporate foundations disbursed over 1.5 billion.¹⁰¹ Transnational corporations were responsible for a large majority of these funds: IBM, the largest donor, disbursed 141.5 million dollars for grants and gifts in 1992;¹⁰² Exxon's charitable activities totalled 73 million;¹⁰³ the philanthropy of General Electric exceeded 66 million;¹⁰⁴ Phillip Morris distributed 46.3 million dollars in grants;¹⁰⁵ and the AT&T Foundation gave away over 31 million.¹⁰⁶

Corporate charity focuses upon a number of important areas related to social development and integration, including education, health, culture and community development. TNCs have helped to build and operate hospitals; donated medical and pharmaceutical products to health agencies; and trained health professionals.¹⁰⁷ They have also helped to build schools;¹⁰⁸ donated funds to minority education programmes;¹⁰⁹ and contributed to educational institutions.¹¹⁰ Additionally, TNCs have fostered economic and community development by supporting housing assistance programmes, recreational facilities, cultural events and infrastructure systems.¹¹¹

Although transnational corporations conduct some of their charitable activities internationally, TNCs' host countries are the primary beneficiaries of corporate philanthropy programmes. In 1992, for example, international grants and gifts comprised only 22 per cent of IBM's charitable programmes,¹¹² 19 per cent of Exxon's,¹¹³ 13 per cent of Mobil's,¹¹⁴ 1 per cent of AT&T's,¹¹⁵ and 4 per cent of General Electric's philanthropic activities.¹¹⁶ Furthermore, most of this international corporate charity is directed towards industrialized countries;¹¹⁷ developing countries receive very little.¹¹⁸

While the philanthropic activities of transnational corporations can certainly advance social development and integration, there exist a few cautionary caveats. First, the money TNCs dedicate to charity has been declining; US-based corporate giving, for example, has decreased every year since 1987. While, in 1987, American companies gave 7.01 billion dollars in 1992 inflation-adjusted dollars, they gave only 6 billion in 1992.¹¹⁹ Second, although the aggregate totals of TNC giving might seem impressive, these figures can be misleading. For example, they constitute only a minimal proportion of TNC earnings; in 1992, American corporate giving constituted only 1.61 per cent of pre-tax income.¹²⁰ Furthermore, because corporate charity is tax-deductible in many countries, the cost of philanthropy to TNCs is reduced. For example, companies may endure only 5 million dollars in costs to donate 10 million to charity. Additionally, because corporate-sponsored foundations do not access current corporate funds, grant making by these foundations does not detract from current TNC profits. A third caveat is that corporate philanthropy is often self-serving. For example, pharmaceutical companies might train health professionals in developing

countries so that these individuals will market and distribute their goods; petroleum companies might assist with infrastructure systems so that they can more easily transport their products; and chemical companies might finance low-cost housing so that their employees can live closer to company plants, thus spending more time working and less time commuting.

part 2: rights and responsibilities of transnational corporations

Part 1 addressed the **descriptive** aspects of the relationship between transnational corporations and social development. The final section on corporate philanthropy indicated that a few corporations feel to some extent that they should help to advance positive social change. Part 2 will expand upon this **normative** discussion of transnational corporations and social development. Specifically, it will examine the normative environment in which TNCs operate, focusing upon the current balance between the rights and responsibilities of transnational corporations.

the rights of transnational corporations

The collapse of the Soviet empire, the dismantling of social welfare programmes in some European nations and the concomitant predominance of a free-market ideology have transformed the context in which transnational corporations operate: these entities are currently witnessing an unprecedented expansion in their privileges and rights. Such an expansion has occurred both on the international level through trade agreements and investment treaties and on the national level through privatization efforts and weakened government regulation.

The recent Uruguay Round of the GATT (General Agreement on Tariffs and Trade) probably constitutes the most important international development related to transnational corporate rights. Comprised of over 20 separate and complex agreements, the GATT expands corporate privileges while limiting the regulatory power of governments. For example, the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) enhances the power of transnational corporations to enforce patents, trademarks and copyrights; this agreement simultaneously impedes governmental efforts in developing

countries to condition transnational corporate investment privileges upon corporate assistance with indigenous technological development. The Agreement on Trade-Related Investment Measures (TRIMs) also expands the rights of transnational corporations. This agreement prevents governments from requiring as a condition of market access that TNCs engage in a variety of socially responsible activities, including the hiring and training of nationals, the promotion of local equity participation, or the use of domestic content in the manufacturing process. Pursuant to this agreement, transnational corporations also may not be subject to minimum capital requirements or trade balancing regulations. Meanwhile, the Agreement on Sanitary and Phytosanitary Measures might enhance the rights of transnational corporations to engage in certain activities that threaten the health and safety of individuals.¹²¹ Finally, the General Agreement on Trade in Services (GATS) limits governmental attempts to regulate TNC power through restrictions on repatriation of profits and capital in service sectors.

While the various agreements in the GATT often enhance the rights of transnational corporations, it is important to note that the relationship between the GATT, corporate privileges and governmental regulatory power is exceedingly complex. Furthermore, there do exist some exceptions to these agreements retaining the authority of governments to regulate TNC activity. For example, many of the agreements, including the Agreement on Trade-Related Investment Measures, grant temporary exemptions to governments in developing countries. The Agreement on Trade-Related Intellectual Property Rights contains clauses addressing the concerns of developing countries regarding issues of biodiversity and local agriculture. Furthermore, article XII of the General Agreement on Tariffs and Trade allows derogations to improve balance-of-payments difficulties and article XX contains a variety of general exceptions, including exemptions for environmental and safety purposes.

The proliferation of bilateral investment treaties (BITs) constitutes another important international development that has enhanced corporate rights. These agreements usually prescribe standards of treatment for transnational corporations, guaranteeing such entities “fair and equitable treatment” as well as “national treatment”.¹²² BITs also often protect transnational corporations from nationalization or expropriation without just compensation and guarantee them the right to freely repatriate profits and capital. By the early 1990s, governments had created and signed 440 Bilateral Investment Treaties.¹²³

Developments at the national level have also expanded the power and rights of transnational corporations. First, privatization efforts in Latin America and Eastern Europe have provided the opportunity for TNCs to enlarge their scope of influence. Spurred by the failure of state-owned enterprises to deliver goods and services effectively, the number of global privatizations quintupled between 1985 and 1990.¹²⁴

Second, changes in national regulatory ideologies and structures have also benefited transnational corporations. Many governments have gradually been lifting national restrictions on TNC activity and removing the conditions they have traditionally placed upon transnational corporate investment privileges. Between 1982 and 1987, for example, half of all African nations instituted changes in their foreign investment code to attract more transnational corporate involvement in their economies; by the early 1990s, almost all the remaining countries in Africa, a region historically suspicious of foreign corporate activity, had followed suit.¹²⁵ These more liberalized investment codes replaced national regulations regarding local ownership restrictions, foreign exchange controls, limits on remittances of profits and TNC obligations to transfer technology to host countries.¹²⁶ Many of these nations did, however, retain some restrictions on transnational corporations, including measures to foster local industrial development, advance certain domestic sectors and promote exports.¹²⁷

Many countries outside Africa, including Albania, Bulgaria, Saudi Arabia and Viet Nam, have also recently liberalized their investment codes.¹²⁸ Even India, a nation historically dedicated to import substitution strategies and cautious of foreign investment, recently liberalized its industrial licensing procedures, allowed partial convertibility of its currency and proclaimed a more limited role for the public sector.¹²⁹ Some other countries that have recently changed their investment policies include the following: the Philippines now allows 100 per cent foreign equity ownership in the major areas of its economy; Egypt has expanded permissible sectors for foreign investment; and Colombia has guaranteed national treatment to transnational corporations, raised the ceilings on profits that can be remitted and no longer requires governmental approval for most investment projects.¹³⁰

the responsibilities of transnational corporations

As current economic and geopolitical conditions help to expand the rights of transnational corporations, they simultaneously minimize TNC responsibilities for advancing social development. Activities promoting such goals are often considered economically inefficient. Furthermore, advocates for TNCs argue that, as profit-maximizing entities, transnational corporations are not responsible for advancing social welfare; instead, they assert that such activities fall exclusively under governmental purview. Finally, corporate officials argue that they are responsible only to the

company's shareholders. While in many countries these officials are correct that they are **legally** responsible only to shareholders, this assertion evades the issue of whether transnational corporations are **morally** responsible for advancing social goals.

However, these claims of transnational corporate advocates and officials are disingenuous for two reasons. First, while TNC proponents, on the one hand, argue that promoting social welfare is solely the responsibility of governments, on the other hand, they are simultaneously attempting to weaken the government regulations they hail as the protectors of the citizenry. For example, TNCs consciously undermine the ability of governments to promote the welfare of poorer and less powerful citizens and groups in society through their direct lobbying efforts for fewer national investment restrictions; less stringent international regulations; lower environmental, labour and consumer standards; and the abolition of unitary tax policies. Additionally, by playing governments off against one another in efforts to receive the most advantageous investment package, TNCs intentionally weaken the capacity of governments to promote social welfare.

Second, the claims of TNC proponents rest upon suspicious moral foundations. They argue in essence that, because weak governments are either unable or unwilling to promote the social well-being of their even weaker citizenry, TNCs therefore have free reign to engage in potentially harmful activities and have no responsibility to such individuals. This line of reasoning was evinced in a previous section on TNCs and consumer issues. As this section demonstrated, TNC officials assert that attempts to prevent them from selling to developing countries pesticides and pharmaceuticals banned in their home countries are imperialistic infringements upon the sovereignty of these nations. However, transnational corporate officials are often aware of the harmful effects of their products and know that many developing countries do not possess the governmental resources necessary to conduct tests on TNC products and that many consumers in such nations do not possess the information necessary to make truly informed choices. There clearly exist disparities in power and information; the crucial issue is whether TNCs are morally bound to refrain from exploiting such disparities or whether their profit-making nature simply frees them from moral obligation and social responsibility.

It is important to note that critics of current TNC attitudes do not argue that these entities should replace governments as the primary advocates for social development. Such critics recognize that the profit-maximizing and non-democratic nature of transnational corporations renders them incapable of performing the role that governments fulfil. Instead, these critics argue that corporate officials have a responsibility to minimize the socially harmful ramifications of their profit-maximizing activities and that they should consider an expanded definition of "stakeholder", beyond merely shareholders, when making their decisions.

As advocates of enhanced TNC social responsibility are not arguing that transnational corporations should replace governments, they are not arguing either that TNCs must necessarily adhere to higher standards than local firms. As corporations become increasingly mobile, it makes no sense that the geographical location of a company's headquarters alone should determine the standards by which it may compete with other firms.

Take, for example, a German chemical company competing with local producers in Thailand. If both firms have similar cost structures, access to technology and opportunities for profit making, they should be held to similar operating standards. Such a Thai firm that exploits workers, knowingly produces harmful products or destroys the environment should be subject to the same criticism that would be levied upon TNCs if these multinational enterprises engaged in such conduct.

However, a German firm competing with local firms in Thailand often will not experience similar operating variables. That is, its marginal costs of production might be lower, its access to technology better and, therefore, its profit-making opportunities greater. Under these circumstances, it is not unreasonable to expect the German firm to adhere to higher labour, consumer or environmental standards — particularly when it can still turn a sizeable profit despite following these more stringent standards; advocates for enhanced TNC responsibility do not argue that transnational corporations should adhere to higher standards if such actions would put them at a significant comparative disadvantage with local firms, preclude them from making profits or compel them to withdraw from the host country's market. Instead, they argue that, when competing with a Thai firm that is less efficient and/or has less access to technology, a socially responsible firm will sacrifice a few marks in profits, especially when such marks might only buy lunch in Berlin but when converted to bhat can sustain a Bangkok family for two weeks.

In fact, such arguments do not always go unheeded. While most transnational corporations deny that they are obliged to foster social development, some accept a duty to be "good corporate citizens". This less stringent standard prohibits transnational companies from affirmatively engaging in activities that produce harm: for example, breaking the law or knowingly distributing faulty consumer products. However, as "good corporate citizens", TNCs are obliged only to refrain from participating in harmful activities; they are not obliged to pursue socially beneficial policies. The distinction between a "good corporate citizen" and a "socially responsible corporation" is important. While the former refrains from knowingly breaking environmental laws or causing ecological disasters, the latter unilaterally implements policies designed to reduce toxic emissions and develops technologies to minimize environmental degradation. While the former pays its employees the minimum wage and complies with workplace safety laws, the latter ensures that wages rise with increases in productivity and guarantees safe working conditions even if government

regulations or administrative policies do not require them to do so. In sum, while the former complies with its minimum legal requirements, the latter advocates social development **even if such goals are not always in the corporation's best economic interest.**

It is important to note, however, that some observers believe that socially responsible policies can sometimes actually advance the financial interests of transnational corporations and are, therefore, not always a drain on the company's budget. Such individuals argue that there exists a growing consumer awareness of corporate behaviour and that consumers are increasingly willing to consider the policies of a corporation when choosing a product brand. The growth of socially responsible investment funds constitutes further evidence of this trend.

codes of conduct

Transnational corporations engage in two primary forms of socially responsible activities: donating to philanthropic causes¹³¹ and implementing codes of conduct. Business associations and individual corporations are both involved in the establishment and implementation of such codes. Business association codes are self-regulatory efforts that a trade association attempts to impose upon all firms operating within an industry. Trade association codes are particularly prevalent in the environmental arena as the Conseil Européen des Fédérations de l'Industrie Chimique, the American Chemical Manufacturers Association and the Japanese Keidanren¹³² have all recently promulgated their own environmental standards.¹³³ The International Chamber of Commerce has even recently established its Business Charter for Sustainable Development.¹³⁴

A particularly interesting form of corporate codes derives from broader business organizations publicly dedicated to promoting social responsibility. For example, the Minnesota Center for Corporate Responsibility, founded in 1978, is a coalition of over 200 companies that has promulgated the "Minnesota Principles". This code of conduct mandates fairness, honesty, respect for human dignity and respect for the environment. Furthermore, it expands the notion of corporate stakeholders to include not only investors, but also customers, employees, suppliers, developing countries and communities. Business for Social Responsibility constitutes another US-based organization that has grown from 54 founding companies to more than 700 member and affiliated businesses since it was launched in June 1992. Although this organization has not formulated a code of conduct, it attempts to foster corporate social responsibility through seminars, support networks, coalition building and a data base that contains socially responsible alternatives for corporations to follow.

Individual corporations have also formulated codes of conduct for their own operations. A recent United Nations survey of 169 relevant firms found that 43 per cent had developed some form of international environmental policy.¹³⁵ Additionally, a few firms have refused to do business in countries with poor human rights records. For example, the Levi Strauss Company does not operate in the People's Republic of China or in Myanmar. Some transnational corporations have been credited with making a positive contribution to social change in South Africa. General Motors, for example, was particularly influential in drafting the Sullivan Principles which attempted to regulate US-based corporate activity in South Africa. Finally, individual firms have been particularly active in formulating codes of conduct for subcontractors in developing countries. Many transnational manufacturing corporations no longer own and operate the plants in which some components of their products are made. Instead, they subcontract out for such goods and then act as global distributors. This de-coupling of manufacturing and distribution has prompted TNCs to assert that they are not responsible for the work conditions or wage levels in factories that manufacture their products. In efforts to promote responsible labour practices, some companies such as NIKE, Levi Strauss, Sears and Reebok have established codes of conduct for their subcontractors.

The Levi Strauss Company probably possesses the most admirable and responsible code of conduct for subcontractors. This code covers environmental, ethical, health and safety standards, and prohibits child labour, prison labour and discrimination. Furthermore, it requires that Levi Strauss subcontractors pay the minimum wage and employ their workers at most 60 hours per week with one day off.¹³⁶ Levi Strauss attempts to ensure compliance with this code through detailed subcontractor evaluation forms and periodic monitoring by corporate employees. The company has fired 35 of its 700 subcontractors for failing to comply with Levi Strauss guidelines.¹³⁷

Although firms continue to implement codes of conduct, there is some question as to whether these measures actually produce positive social effects. Advocates of such codes assert that they send a serious message from senior management to all employees and that they facilitate the efforts of those employees who do want to engage in socially responsible activities.¹³⁸ On the other hand, critics state that corporations establish these codes only to advance their own self-interest. These sceptics assert that companies maintain codes of conduct to produce a good public image which they then market to socially conscious consumers; to escape attention when they do cause harm; to distance themselves from employees who engage in practices against the code of conduct, thus diminishing corporate legal liability; and to shield themselves against litigation.¹³⁹ Furthermore, there is some evidence that companies are unwilling or unable to enforce their codes of conduct.¹⁴⁰ According to critics, therefore, such codes generate only marginal effects on employment, environmental or consumer practices, and,

in fact, might obfuscate the true intentions and policies of transnational corporations.

While the actual consequences of corporate codes are difficult to ascertain with respect to specific firms, on a general level these instruments are most likely benign. Despite critics' claims, there is little evidence that transnational corporations have been able to use their codes of conduct to minimize their legal liability or generate a public image that is a complete fabrication. On the other hand, it should not be expected that these codes will magically transform a transnational corporation into a socially responsible actor. For example, although Reebok has established guidelines for its subcontractors, employees sewing Reebok shoes in Indonesia still make only the minimum \$1.80 daily wage, and no Reebok subcontractor has ever lost an order for failing to comply with Reebok's code.¹⁴¹

Furthermore, some companies that do not have codes of conduct might be more responsible than corporations that have established such guidelines. For example, as mentioned above, the Gillette Company operates in the same Indonesian environment as Reebok. Although Gillette has not established a code of conduct, it pays its workers three to four times the legal minimum wage and also provides its employees American-style retirement and health benefits.¹⁴²

limits to corporate social responsibility

While there are very few "socially responsible corporations", there do exist a few exceptions. Ben & Jerry's is one of the most famous examples. This company buys the Brazil nuts for its Rainforest Crunch ice cream from peoples living in the Amazon rain forest. These buying policies are designed to demonstrate the economic viability of environmentally sustainable practices and to reduce the financial incentives for inhabitants to clear cut the forest.¹⁴³ Esprit is another prominent exception. This clothing company, for example, supports a cottage industry in impoverished West Virginia where they employ 30 Appalachian women knitting sweaters from organic wool, and Esprit pays these women three times what other farmers are earning for their wool.¹⁴⁴

Even the few socially responsible corporations, however, occasionally engage in harmful activities. For example, despite its good reputation and its impressive sourcing guidelines, Levi Strauss still operated a plant in Mexico called Maquillas Internacionales where company employees knew terrible working conditions existed.¹⁴⁵ Although Esprit has received numerous awards for its corporate responsibility, the United States Department of Justice raided one of its subcontractor's factories last year in San Francisco

where the employees were owed 127,000 dollars in wages, were paid below the minimum wage and received no overtime pay.¹⁴⁶

Relying upon these examples, some critics of TNCs contend that no “socially responsible corporations” truly exist. However, such criticism seems misguided and extreme. Supervising every aspect of a multinational enterprise is obviously quite difficult. While Esprit and Levi Strauss might not be perfect, they can still be considered “socially responsible corporations”.

These improprieties, however, demonstrate that transnational corporations — even the most socially responsible ones — cannot always be expected to unilaterally promote social development. It must not be forgotten that “corporations exist to pursue their own profit maximization, not the collective aspirations of society. They are commanded by a hierarchy of managers, not by democratic deliberation.”¹⁴⁷

The profit-making *telos* of transnational corporations will usually compel them to subjugate all other issues to the pursuit of money — even if it means sometimes breaking the law. In a study of Fortune 500 companies, from 1975 to 1984, 62 per cent were involved in one or more “significant illegalities”, 42 per cent in two or more and 15 per cent in five or more.¹⁴⁸ If large corporations cannot be expected to obey the law, they can hardly be expected to foster social development and social integration. As Indonesian labour organizer, Fauzi Abdullah, aptly described the activities of Reebok, a company that has recently established subcontracting guidelines as well as an international human rights award:

“Don’t confuse human rights with marketing. Reebok isn’t the worst company here, but that doesn’t mean they’re good guys... Their main purpose is to exploit low wages here. They’re not looking for ways to help the people who make their shoes.”¹⁴⁹

part 3: institutional arrangements and pressures to foster transnational corporate responsibility

Because transnational corporations cannot be expected to unilaterally promote social development and social integration, it is important that they be subjected to pressures and institutional arrangements compelling them to advance such goals. Part 3 will describe some of the effective governmental and non-governmental measures designed to foster corporate social responsibility.

governmental efforts

In recent history, governments have constituted the agents most responsible for advancing social development and social integration. Through anti-trust laws, anti-discrimination codes, labour legislation, consumer protection regulations, welfare assistance programmes, health care plans, educational facilities and transportation systems, governments have attempted to meet citizens' basic needs, ensure equal opportunity for advancement and minimize disparities in living standards. However, in a world where the most dynamic economic entities are global and yet governments remain local and national, serious problems emerge. As transnational corporations are increasingly able to play communities and nations off against one another to receive the most advantageous investment package, governments are decreasingly able to perform their traditional functions of promoting social welfare:

“The internationalization of once local corporations has placed a growing number of communities in a terrible dilemma: either cut wages, gut environmental standards, and offer tax breaks to induce corporations to build new factories or offices, or prepare to become an economic ghost town.”¹⁵⁰

As governments remain concerned with citizens' living standards, jobs and the environment at home, their largest corporations are slashing jobs, abandoning communities and competing globally by shaving environmental and labour costs. Despite these disadvantages and weaknesses, however, governments continue their efforts to engender socially responsible activities by transnational corporations.

sub-national and national level

Governments attempt to promote social development and social integration through regulation of transnational corporations and trade-related investment measures (TRIMs). These measures can assume a number of different forms including positive law, informal incentive schemes¹⁵¹ and foreign direct investment criteria.¹⁵² Furthermore, such measures can cover a broad expanse of substantive areas, including corporate transparency through disclosure of information requirements, production processes through local content regulations, workplace conditions through labour legislation, and employment levels through mandated hiring of nationals. Governments have also enacted a host of financially oriented measures regulating banks, stock markets, divestment and the repatriation of profits. Additionally, governments have implemented legislation mandating local equity participation, property ownership limitations, transfer of technology requirements as well as responsible environmental and energy practices. Finally, governments have required transnational corporations to assist with macro-economic issues through balance-of-payments clauses, anti-trust laws and import-export limitations.

Although governments have enacted a broad range of regulatory and trade-related investment measures, it is difficult to ascertain the effectiveness of such efforts. There exist surprisingly few micro studies on the effects of TRIMs on corporate behaviour. The studies that do exist indicate that trade-related investment measures have produced mixed effects. One of the most contentious and complex issues is the extent to which TRIMs dissuade transnational corporations from investing within a particular country at all; this concern is especially prevalent now when TNCs are able to play governments off against one another in efforts to receive the most advantageous investment package.

Two case studies involving the automotive and computer industries have demonstrated the ways in which the Mexican government has successfully used trade-related investment measures to advance social goals. In the automotive sector, Mexico's domestic content laws and export requirements have been particularly effective.¹⁵³ In the mid-1970s, the Mexican government announced that manufacturers who did not comply with these TRIMs would have to withdraw from the market; Ford, Volkswagen,

Chrysler and Nissan all met Mexico's demands. Despite heavy protests from United States unions, General Motors also decided to comply with Mexico's policies. As a result of these TRIMs, Mexico became one of the world's most important sourcing countries for auto engines;¹⁵⁴ furthermore, Mexican auto exports expanded from 253 million dollars in 1977 to 3.3 billion in 1987.¹⁵⁵

The Mexican government has also successfully implemented trade-related measures in the computer industry.¹⁵⁶ In 1981, when Mexico's market for computers was completely supplied by imports, the government enacted legislation in the computer sector regarding local manufacturing, local equity ownership, domestic content, exports, as well as research and development. By juggling these various requirements in negotiations with IBM, Apple and Hewlett-Packard, the Mexican government "achieved its goal of stimulating the local manufacturing of computers. While Mexico has allowed the industry to remain reliant on foreign investment and technology, it has made considerable progress toward increasing the percentage of Mexican value-added in the industry".¹⁵⁷

Another governmental measure that has successfully influenced transnational corporate behaviour is a "clawback clause". As mentioned above, governments have implemented various informal incentive schemes to attract TNC investment. For example, in efforts to induce Diamond Star Motors, a joint venture of Chrysler and Mitsubishi to locate a plant in Illinois, the relevant American state and local governments offered the company 296 million dollars in tax breaks and 10 million dollars in land; in return, the companies promised to employ 28,000 individuals in their factory.¹⁵⁸ A "clawback clause" would require these corporations to refund to the state and local governments the millions of dollars in incentives they accepted if the companies were to break their contractual obligations or decide to close the plant earlier than expected. European governments have repeatedly and successfully attached such measures to heavy industrial subsidies.¹⁵⁹

Another creative idea regarding governmental regulation of transnational corporate activity includes the extraterritorial application of home country laws. This measure would require transnational corporations operating in developing countries to adhere to relevant laws applicable in their home countries, because such laws in the environmental, consumer and labour fields are often more stringent than the requirements found in host countries. Extraterritorial application of home country laws could have a beneficial impact on the activities of US-based pesticide companies, for example. Under current United States law, pesticide companies wishing to sell their products in the United States must first obtain approval from the Federal Drug Administration; however, even if the FDA determines that their products are too unsafe to sell in the domestic market, these companies are permitted to sell their pesticides abroad.¹⁶⁰ As described above, the marketing and distribution policies of transnational pesticide companies

continue to produce health and environmental problems in both industrialized and developing countries.¹⁶¹ If the United States were to adopt a law mandating the extraterritorial application of its drug and pesticide laws, US-based transnational corporations would have to adhere to the stringent FDA regulations — no matter where they wanted to sell their pesticides. Unfortunately, no country has enacted such legislation yet.

international level

Because trade agreements such as the GATT render trade-related investment measures more difficult¹⁶² and because transnational corporations are increasingly able to play communities and nations off against one another, it is crucial that there exist international governmental attempts to promote socially responsible behaviour by transnational corporations. International governmental bodies can pressure TNCs into socially responsible activities through two primary methods: the implementation of a code of conduct and regulatory efforts.

▫ code of conduct

Efforts to formulate a code of conduct for transnational corporations originated in the early 1970s when the United Nations established the Commission on Transnational Corporations as an intergovernmental subsidiary body of the United Nations Economic and Social Council (ECOSOC). The Commission quickly established a working group to formulate a code of conduct for TNCs and, by 1978, it had completed a first draft. However, due to disagreements between the business community, industrialized countries and developing countries, this initial draft underwent a number of revisions that granted TNCs increasingly broader rights.

The most recent draft emerged in 1990.¹⁶³ This code of conduct is only a voluntary instrument and contracting parties do not assume any legally binding obligations. Although the 1990 draft generally grants transnational corporations broader rights and privileges than earlier drafts, it covers very similar issues and is divided into two sections: activities and treatment of transnational corporations. The section on TNC activities is very thorough, stating that these entities should respect national sovereignty; refrain from interfering in a government's internal affairs; adhere to the host government's economic, social and cultural objectives; renegotiate contracts signed under duress; respect human and worker rights; abstain from corrupt practices; facilitate local employment and ownership; co-operate on balance-of-payments issues; refrain from transfer pricing and anti-competitive practices; foster transfer of technology; promote consumer and environmental protection; and disclose relevant information.¹⁶⁴ In return, host governments must grant transnational corporations fair and equitable

treatment as well as national treatment; adequately compensate transnational corporations for nationalized or expropriated property; permit TNCs to transfer all payments legally due; disclose to corporations relevant information on laws and administrative policies; ensure the confidentiality of TNC-disclosed materials; and facilitate the transfer of TNC employees between entities of the corporation.¹⁶⁵

While a significant level of effort has been expended to draft an international code of conduct for transnational corporations, the utility of implementing such a code has been subject to debate. Critics assert that this code merely duplicates existing international standards and agreements; that its voluntary nature renders it useless; and that it is politically not viable. However, the arguments in favour of a code are stronger. First, a code of conduct is important because it addresses TNC activities on an international level — a critical endeavour given the recent rise in transnational corporate power relative to national governments' regulatory power. Second, the process of revising and ratifying a code can help build trust between transnational corporations, non-governmental organizations and developing countries — an important development as attitudes towards economic activity increasingly favour the free market. Third, it could help address the aforementioned substantive issues and prevent the downward harmonization of consumer, environmental and labour standards. Fourth, a code could help streamline the confusing and sometimes contradictory multitude of charters, guidelines and laws regulating transnational corporate activity. A simplified system would decrease administrative costs TNCs currently incur to ensure compliance with a confusing web of regulatory frameworks and could facilitate adherence to minimum standards. Fifth, a code of conduct would not duplicate many existing instruments, because very few such documents are explicitly directed towards the activities of transnational corporations, focusing instead on governmental obligations. Finally, it is important to note that non-binding agreements can be influential because they engender a normative environment, form the building blocks of future international law and can provide a forum for continued dialogue on their subject matter.

Unfortunately, however, the current prospects for a code of conduct are not promising. The political will behind the initial efforts to formulate such a code has waned. In May 1994, the United Nations Commission on Transnational Corporations decided to dissolve itself and fold into the United Nations Conference on Trade and Development (UNCTAD). Furthermore, last year the Commission's companion body, the United Nations Centre on Transnational Corporations, was downgraded into a smaller unit of UNCTAD, and its office moved from New York to Geneva. The Centre's mandate was also radically transformed: as of 1994, it no longer undertakes valuable studies on TNC activity but rather seeks only to promote foreign direct investment. Because of the recent changes in the former United Nations Commission and Centre on Transnational Corporations, attempts to promulgate an international code of conduct for TNCs must now occur in a different forum.

In addition to this United Nations document, there exist two other international governmental codes focused upon transnational corporate conduct: the Organisation for Economic Co-operation and Development's¹⁶⁶ Guidelines for Multinational Enterprises (1976) and the International Labour Organisation's Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy.¹⁶⁷ Similar to the United Nations code, the OECD Guidelines are directed at TNCs, are voluntary and are not legally enforceable. The critical differences between the OECD Guidelines and the United Nations code are that, while the Guidelines apply only to the few industrialized countries that are signatories, the code would apply globally. Furthermore, the United Nations code is far more comprehensive and restrictive of transnational corporate activity. The ILO Declaration is also directed towards both governments and TNCs, is voluntary and is not legally enforceable. While the ILO instrument is more restrictive of TNC activity than the OECD document, the ILO Declaration is not as comprehensive as the United Nations code. It is also important to note that not all countries have ratified this Declaration.

▫ regulatory efforts

International governmental bodies currently regulate the activities of transnational corporations pursuant to customary law and numerous treaties. The efforts of these international institutions to promote socially responsible behaviour by TNCs constitute an expansion of national and sub-national attempts to advance such goals.

A thorough discussion of the vast and disparate array of international regulations governing transnational corporations is outside the scope of this paper. It is important to note, however, that very few of these instruments are directed explicitly towards transnational corporations — although they might indirectly affect the legality of TNC activities. Examples of relevant international instruments include the United Nations General Assembly resolutions on permanent sovereignty over natural resources,¹⁶⁸ the United Nations Charter of Economic Rights and Duties of States,¹⁶⁹ the World Health Organization's International Code of Marketing of Breast Milk Substitutes, FAO's (Food and Agriculture Organization of the United Nations) International Code of Conduct on the Distribution and use of Pesticides,¹⁷⁰ the International Covenant on Civil and Political Rights,¹⁷¹ the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices,¹⁷² the United Nations General Assembly resolution on consumer protection,¹⁷³ the Vienna Convention for the Protection of the Ozone Layer,¹⁷⁴ and the International Convention for the Prevention of Pollution of the Sea by Oil.¹⁷⁵

The extent to which these international agreements have been effective in regulating the activities of transnational corporations is difficult to determine. As mentioned above, these documents often possess the drawbacks that they are not explicitly directed towards TNCs, establish weak

oversight mechanisms and fail to create an enforcement authority. Legal realists would contend, therefore, that these international agreements are completely ineffective. While such agreements are certainly not ideal, however, the legal realist critique is too extreme because it ignores the more subtle ways in which law operates. Although these international documents do not possess enforcement mechanisms and, therefore, no TNC can be legally compelled to comply with their provisions, these agreements can still influence the behaviour of transnational corporations by conditioning the normative context in which TNCs operate. The environmental, consumer, labour and human rights agreements that occupy the international arena are difficult to ignore. Furthermore, they provide citizen groups with legitimacy as they campaign against damaging TNC policies. For example, while the World Health Organization's International Code of Marketing of Breast Milk Substitutes is not legally enforceable, it provides TNCs with a benchmark by which to judge their operations and enhances the legitimacy of citizen claims that a TNC might be violating international moral standards. In sum, these international agreements are not perfect and their lack of enforceability renders difficult an assessment of their effectiveness. However, they are simultaneously not irrelevant because they shape the normative environment in which TNCs operate and possibly constitute the first step in the creation of a more enforceable international legal régime.

non-
governmental/
citizen
organization
efforts

While governments can certainly help to promote corporate social responsibility, citizen movements are even more important actors pressuring both governments and TNCs to implement and institutionalize this objective. In fact, there exists a rich history in many countries of such citizen involvement, originating primarily in unions, religious groups, farm groups, environmental organizations, consumer groups and women's organizations.

Citizen organizations have attempted to foster corporate social responsibility through a variety of methods, including targeting the board of directors, generating negative publicity for the corporation, instituting law suits, pressuring governmental agencies, engaging in dialogue with company

officials and mobilizing communities. This section will focus on three particularly interesting and successful tactics that citizen groups have undertaken: organizing corporate boycotts, formulating corporate codes of conduct and pursuing alternative investment strategies.

corporate boycotts

One of the most salient and successful tactics citizen groups have undertaken is the corporate boycott. For example, as previously mentioned, in the 1980s, consumer groups organized the famous boycott of infant formula manufacturer Nestlé for its practices of marketing and distributing this product. Through the boycott, these citizen organizations successfully compelled Nestlé to change its harmful practices and convinced the World Health Organization to promulgate its International Code of Marketing of Breast Milk Substitutes. Citizen organizations, particularly religious groups, were also formative in organizing the crippling boycott of apartheid South Africa and successfully convinced numerous companies to divest from the country. Citizen groups in the United States persuaded 27 states and 101 cities to enact sanctions on South Africa; as a result of the boycott, two thirds of all US-based companies sold off their equity shares in their South African operations.¹⁷⁶ Citizen groups organized yet another successful boycott of the Heinz Company: environmentalists forced this company to terminate its policy of catching tuna in nets that snared dolphins.

codes of conduct

Citizen groups have also attempted to promote TNC social responsibility by formulating codes of conduct. The Coalition for Environmentally Responsible Economies (CERES) has promulgated a particularly effective code entitled the CERES Principles, which emerged in 1989 from the Exxon/Valdez disaster off the coast of Alaska.¹⁷⁷ This coalition attempts to foster co-operation between environmental organizations and the business community and to convince corporations to adhere to the voluntary CERES Principles. Companies that endorse this code of conduct commit themselves to follow responsible practices in a number of environmental arenas, including the protection of the biosphere, the sustainable use of natural resources, the reduction and disposal of natural waste, energy conservation and environmental restoration.¹⁷⁸ As of 1994, dozens of companies had endorsed these Principles, including the Sun Oil Company and General Motors.¹⁷⁹ It is important to note, however, that the CERES Principles are not legally binding. Companies endorsing this code are responsible for evaluating their own compliance by completing a detailed CERES report

that the Coalition for Environmentally Responsible Economies then disseminates to the public.

Japanese-based citizen groups have also formulated a code of conduct for transnational corporations. The “Guidelines for Restricting the Activities of Japanese Companies Abroad” cover a wide range of issues. They require Japanese transnational corporations to conform with domestic and international law, respect social and cultural values, disclose relevant information, maintain safe working conditions, promote consumer and environmental protection, and refrain from political activity.

The Australian-based International Organization of Consumer Unions constitutes another citizen group dedicated to promoting corporate social responsibility through a code of conduct. At the 1994 International Conference on Fairplay in Global Business held in India, this organization suggested the establishment of Guidelines for Global Business. Participants in this symposium discussed the ways in which existing codes and charters could be synthesized to produce a streamlined code of conduct for transnational corporations.¹⁸⁰ Because the United Nations has shelved discussions on the United Nations Code of Conduct for Transnational Corporations, efforts to promulgate the Guidelines for Global Business could replace and expand upon previous attempts by the disbanded United Nations Commission on Transnational Corporations.

alternative investment strategies

Non-governmental organizations have also attempted to promote corporate social responsibility through creative investment strategies. Such tactics have assumed two primary forms. First, numerous groups have emerged promoting socially responsible investing practices. Such private organizations screen opportunities for potential investors to ensure that their clients’ money contributes only to companies engaging in socially responsible activities. These investment groups attempt to demonstrate that corporate social responsibility and profit-making are not mutually exclusive endeavours. There exists significant debate, however, as to whether socially responsible investment strategies offer returns as high as traditional investment tactics.

Second, citizen organizations have attempted to promote TNC social responsibility by introducing shareholder resolutions. Instead of advocating change from outside the company, citizen groups acquire shares in a corporation so that they can promote change from **within** the company. During the past few years, the influence of shareholders over the corporate process has been increasing, aided by the concentration of shareholder power

in institutional investors.¹⁸¹ Active investors are increasingly seeking to change corporate policy by using the public process to educate shareholders and to propose alternatives to the policies of the incumbents.¹⁸²

The Interfaith Center on Corporate Responsibility has emerged at the forefront of this shareholder resolution movement. Founded in 1971 and dedicated to merging social values with investment decisions, this organization is a coalition of nearly 250 health care corporations, pension funds, as well as Protestant, Jewish and Roman Catholic orders, denominations, agencies and dioceses. This centre not only sponsors shareholder resolutions but also conducts dialogue with corporate management, applies social screens to investors' portfolios, divests stock, publishes special reports, testifies at the United Nations, leads consumer boycotts and letter writing campaigns, advises socially responsible mutual funds, and acts as a clearinghouse for alternative investments and community economic development.

According to the Interfaith Center on Corporate Responsibility, as of early 1994, there were at least 286 socially responsible shareholder resolutions outstanding.¹⁸³ These resolutions cover an extraordinarily wide range of subjects including alcohol and tobacco sales, marketing and advertising; labelling; corporate governance; executive compensation; corporate philanthropy; development lending; community reinvestment policies; the environment; energy conservation; employee equality; indigenous peoples; labour policies; pharmaceuticals; weapons sales; Myanmar; and Northern Ireland.¹⁸⁴ Sponsors include the Pension Fund of Minnesota, the United Brotherhood of Carpenters, the Calvert Social Investment Fund and the Friends of the Earth.

Specific resolutions, for example, request that Time Warner and Knight Ridder analyse whether advertisements in their publications encourage minors to smoke; that Chase Manhattan and Citicorp establish human rights, social, political and ecological criteria for extending loans in developing countries; that Pepsico promote packaging reduction and recycling systems; that Exxon report on the impact of its mining operations on indigenous peoples; and that SPRINT establish a committee on plant closings with employee and community representatives.¹⁸⁵

conclusion

The era of the transnational corporation has clearly arrived. As national governments increasingly lose power to these global economic entities and

as the free-market ideology becomes even more predominant, TNCs remain some of the most powerful economic, social and political agents in the world. The expanding array of global opportunities for transnational corporations to transfer money, capital and technology around the world renders more difficult the reconciliation of the long-term public interest with short-term TNC interests. Furthermore, the increased leverage of transnational corporations has allowed them occasionally to play nations and communities off against one another in an effort to receive the most advantageous benefit package, a dynamic that generates a “downward harmonization” of labour, consumer and environmental standards.

Although transnational corporations could potentially play an important role in social development, their current impact on this process is moderate at best. While these entities certainly provide jobs, the quality of such jobs is often low and TNCs have demonstrated little proclivity towards protecting job security. While transnational corporations certainly produce important consumer goods, their marketing and distribution tactics sometimes produce harmful health ramifications. They are sometimes at the forefront of developing technology for protecting the environment, yet transnational corporations have historically followed ecologically irresponsible practices and have plundered the natural resources of developing countries. While TNCs provide taxes that can be used to fund social programmes, these entities are constantly using their expansive powers to lobby against such taxes and engage in manipulative transfer pricing policies designed to avoid paying governments the revenues they are due. Transnational corporations develop and employ important technological innovations, but they rarely transfer this technology to developing countries and the technology they do employ in developing countries is often inappropriate. While TNCs might foster economic growth, it is even less clear whether this alleged economic growth produces socially beneficial results. Finally, transnational corporate activity can sometimes perpetuate disparities in standards of living. Instead of creating a global village, these firms are weaving webs of production, consumption and finance that offer benefits to only a small minority of the world’s inhabitants. Most people are marginalized, excluded or hurt by these webs of activity.

As described above, transnational corporations sometimes unintentionally advance social development as a by-product of their profit maximizing activities. However, with the exception of corporate philanthropy and a few self-imposed codes of conduct, they rarely consider themselves obligated to advance such social goals. TNC officials often advance disingenuous and morally suspect arguments against corporate social responsibility. In fact, recent developments in bilateral investment treaties, multilateral trade agreements, privatization efforts, weakened national regulations and the predominance of the free-market ideology reinforce this perspective by minimizing TNC responsibilities while expanding their rights.

The extent to which a trend exists towards or away from greater corporate social responsibility is difficult to assess. On the one hand, some business associations have emerged espousing the importance of socially responsible activities and some individual firms have unilaterally pursued (and often marketed) such policies. On the other hand, however, transnational corporations have been heavily involved in promoting and lobbying for an international economic environment that expands their rights while minimizing their responsibilities.

Because of the current environment in which TNCs operate as well as their profit maximizing nature, it is important that both governments and citizen organizations continue to pressure TNCs into advancing socially responsible goals. Sub-national and national governments can achieve such objectives through their traditional regulatory efforts and creative trade-related investment measures. However, because the GATT limits the regulatory power of sub-national and national governments and because transnational corporations are increasingly able to play communities and nations off against one another, international governmental regulation is crucial. In addition, an international code of conduct for transnational corporations could be beneficial. However, the real burden for fostering corporate social responsibility lies with citizen organizations. They must continue to pressure both governments and transnational corporations to institute more socially responsible policies. Available and effective tactics include consumer boycotts, codes of conduct, shareholder resolutions and socially responsible investment practices. Such efforts are crucial if the power of transnational corporations is to be harnessed towards achieving positive social change.

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notes

1. Sauvart, 1994, p. 2.
2. United Nations Commission on Transnational Corporations, 1993c, p. 4, para. 2.
3. UNCTAD, 1994a, p. 26, para. 19.
4. Ibid., p. 15, para. 12. Of the 100 largest TNCs, 53 are located in Western Europe, 27 in the United States and 14 in Japan (ibid., p. 18, para. 18).
5. While 46 per cent of foreign affiliates are located in industrialized countries, 42 per cent are located in developing countries (United Nations Commission on Transnational Corporations, 1993c, p. 12, para. 13).
6. Ibid., p. 4, para. 2.
7. All references to dollars are to US dollars.
8. United Nations Commission on Transnational Corporations, 1993a, p. 24, para. 39.
9. United Nations Commission on Transnational Corporations, 1993b, p. 8.
10. United Nations Commission on Transnational Corporations, 1991, p. 4.
11. Sales of afore-mentioned transnational corporations in 1993: Royal Dutch/Shell Group: 96.2 billion dollars; BAT Industries: 48.2 billion dollars; Siemens AG: 50.4 billion dollars; General Motors: 133.6 billion dollars; Mitsubishi: 168.4 billion dollars (CIFAR, 1993, Appendix A, Table 1). Annual GDP of afore-mentioned countries in 1991: New Zealand: 48.2 billion dollars; Hungary: 29 billion dollars; Chile: 31.3 billion dollars; Costa Rica: 5.6 billion dollars; Ecuador: 11.6 billion dollars; Hong Kong: 67.6 billion dollars; Israel: 62 billion dollars (UNDP, 1994, pp. 180-181, 206).
12. United Nations Commission on Transnational Corporations, 1993a, p. 23, para. 38.
13. Only 1 per cent of parent transnational corporations account for one half of global FDI stock in foreign affiliates and 95 per cent of outflow originated in developed countries (United Nations Commission on Transnational Corporations, 1993c, p. 18, para. 21; UNCTAD, 1994a, p. 5, table 1).
14. UNCTAD, 1994a, p. 4, para. 2.
15. For example, all countries in sub-Saharan Africa have had double-digit unemployment rates since the 1970s. In 1993, unemployment in India and Pakistan reached approximately 15 per cent, in urban Latin America 8 per cent, and in the European Community (EC) 11 per cent (UNCTAD, 1994b, pp. 4-5, paras. 3-4).
16. Ibid., p. 5, para. 6.
17. Ibid.
18. United Nations Transnational Corporations and Management Division, 1992, p. 184.
19. UNCTAD, 1994c, p. 39, para. 70.
20. UNCTAD, 1994b, p. 29, para. 31.
21. Alschuler, 1988, pp. 50-56.
22. UNCTAD, 1994a, p. 26, para. 20.
23. United Nations Transnational Corporations and Management Division, 1992, p. 51.
24. Ibid., p. 186.

25. United Nations Commission on Transnational Corporations, 1993c, p. 22, para. 24.
26. Samuels, 1990, p. 37; UNCTAD, 1994b, p. 32, para. 42.
27. UNCTAD, 1994b, p. 32, para. 43.
28. Alschuler, op. cit., pp. 50-56.
29. See the section on "The Responsibilities of Transnational Corporations" in part 2 of this paper.
30. Zuckoff, 1994b.
31. Zuckoff, 1994a.
32. Ibid.
33. Unfortunately, such information is not available.
34. Zuckoff, 1994a.
35. This paragraph relies on a case study published in Samuels (op.cit., pp. 52-55).
36. Ibid., p. 52.
37. Ibid., pp. 53-54.
38. Ibid., p. 54.
39. Barnet and Cavanagh, 1994, p. 183.
40. Ibid.
41. Zuckoff, 1994c; de George, 1993, p. 61.
42. Zuckoff, 1994b.
43. Zuckoff, 1994c.
44. Greenpeace, 1993, p. 9.
45. Ibid, p. 7.
46. Ibid., p. 9.
47. UNCTAD, 1993, pp. 102, 135.
48. For a more detailed discussion of the boycott, see the section on "Non-Governmental/Citizen Organization Efforts" in part 3 of this paper.
49. Zuckoff, 1994c.
50. Barnet and Cavanagh, op. cit, pp. 184-207.
51. Ibid.
52. Zuckoff, 1994d.
53. Zuckoff, 1994c.
54. Ibid.
55. de George, op. cit., p. 75.
56. Ibid., p. 74.
57. Ibid.
58. In December 1984, one of the world's worst industrial disasters occurred in a Union Carbide plant in Bhopal, India. Poisonous gas leaked from a negligently maintained chemical factory killing 3,000 and injuring over 200,000. See Reinhold (1985), Lueck (1985) and Everest (1985).
59. An Exxon ship called the Valdez crashed off the coast of Alaska, spilling thousands of gallons of oil into the ocean and killing large amounts of marine life. The company untruthfully maintained that the oil spill had caused only minor damage and that the oil spill had been satisfactorily neutralized (de George, op. cit., p. 5).
60. For years, Texaco has been pumping oil from the Ecuadorian rain forest. Recently a class action suit against the company has been filed in the United States on behalf of 300,000 indigenous people in Ecuador seeking compensation for the environmental destruction Texaco's activities have visited upon their lands. See **The Multinational Monitor**, 1993.
61. UNCTAD, 1993, p. 101.

62. E.I. DuPont de Nemours & Co. accounts for one quarter of all CFCs (United Nations Transnational Corporations and Management Division, 1992, p. 226).
63. UNCTAD, 1993, p. 141.
64. United Nations Transnational Corporations and Management Division, 1992, p. 228.
65. de George, *op. cit.*, p. 67.
66. United Nations Transnational Corporations and Management Division, 1992, pp. 233-234.
67. *Ibid.*, p. 226.
68. Rice, 1993, p. 122.
69. *Ibid.*
70. Samuels, *op. cit.*, p. 18.
71. United Nations Commission on Transnational Corporations, 1993a, p. 7, paras. 6-7; UNCTAD, 1994c, p. 42, para. 79.
72. United Nations Transnational Corporations and Management Division, 1992, p. 245.
73. Chan and Clark, 1992, pp. 42-44; Tien, 1992, p. 15; Economic Intelligence Unit, 1993/94, p. 9.
74. See, for example, Chan and Clark (*op. cit.*, pp. 42-44), Tien (*op. cit.*), and Cheng and Haggard (1992).
75. UNCTAD, 1994c, p. 42, para. 79.
76. Alschuler, *op. cit.*, p. 97.
77. United Nations Commission on Transnational Corporations, 1992, pp. 5-6, para. 8.
78. Tolentino, 1993, p. 121.
79. As described above, of course, the relationship between economic growth and social development is ambiguous.
80. Tolentino, *op. cit.*, p. 121.
81. United Nations Commission on Transnational Corporations, 1992, p. 6, para. 10.
82. Tolentino, *op. cit.*, p. 142.
83. DiConti, 1992, p. 107.
84. United Nations Commission on Transnational Corporations, 1992, p. 7, para. 14, and p. 10, para. 20. Large scale R&D rarely occurs in developing countries (United Nations Transnational Corporations and Management Division, 1992, p. 167).
85. United Nations Commission on Transnational Corporations, 1992, p. 14, para. 37.
86. Lall, 1993, p. 13.
87. United Nations Transnational Corporations and Management Division, 1992, p. 115.
88. Rosenblatt, 1994.
89. Barrett, 1994.
90. Leger Sivard, 1991, p. 5.
91. Barnet and Cavanagh, *op. cit.*, p. 179.
92. *Ibid.*, p. 22.
93. Barnet and Cavanagh, *op. cit.*, p. 192.
94. *Ibid.*, p. 183.
95. de George, *op. cit.*, p. 68.
96. UNCTAD, 1994b, p. 40, para. 60.
97. Chakravarthi, 1990.

98. As the case study of the automotive industry in Brazil depicted, for example, transnational corporations acted as unintended levers of social and political change in this country. See the subsection on "Employment" in part 1 of this paper.
99. There exists an important distinction between direct corporate giving programmes and corporate-sponsored foundations. While the former are based solely on annual corporate funds, the latter usually derive from a seed grant, a portion of which the foundation disburses each year. Some companies engage in only direct giving and others possess only corporate foundations; still others conduct charitable activities through both avenues.
100. Foundation Center, 1993, p. vii.
101. AAFRC Trust for Philanthropy, 1993, p. 106; Foundation Center, 1994b, p. 38.
102. Foundation Center, 1993, pp. 349-350.
103. This includes 55 million dollars in direct giving and 18 million dollars through its foundation (TAFT Group, 1994, p. 464; Foundation Center, 1994a, p. 639).
104. This includes 46 million dollars in direct giving and over 20 million dollars through its foundation (TAFT Group, 1994, p. 474; Foundation Center, 1994a, p. 639).
105. Foundation Center, 1993, pp. 555-556.
106. Foundation Center, 1994a, p. 639.
107. McGuire, 1983, pp. 21-27.
108. In Zimbabwe, for example, Union Carbide helped to build a technical college and nine other schools offering free education to students (*ibid.*, pp. 29-32).
109. For example, AT&T donated 3.7 million dollars to the United Negro College Fund, a American organization dedicated to the advancement of African-American education (AAFRC Trust for Philanthropy, 1993, p. 111).
110. Japanese companies alone donated approximately 100 million dollars to American educational institutions (AAFRC Trust for Philanthropy, 1993, p. 110). ARCO Chemical Company donated 2,500 dollars to the Jakarta International School (TAFT Group, 1994, p. 659).
111. McGuire, *op. cit.*, pp. 35-39. For example, IBM donated 190,000 dollars to the Small Home Building Loan Fund in Johannesburg, South Africa (Foundation Center, 1993, pp. 349-350).
112. Percentage calculated from figures in Foundation Center (1993, pp. 349-350) and TAFT Group (1994, p. 491).
113. Percentage calculated from figures in Foundation Center (1994a, p. 639) and TAFT Group (1994, p. 464).
114. Percentage calculated from figures in TAFT Group (1994, p. 515).
115. Percentage calculated from figures in Foundation Center (1994a, p. 639) and TAFT Group (1994, p. 404).
116. Percentage calculated from figures in Foundation Center (1994a, p. 639) and AAFRC Trust for Philanthropy (1993, p. 110).
117. AAFRC Trust for Philanthropy (1993, pp. 109-110); TAFT Group (1994, pp. 401, 491).
118. As notes 107-111 indicate, however, transnational corporations do sometimes conduct philanthropic activities in developing countries.
119. AAFRC Trust for Philanthropy, 1993, p. 106.
120. *Ibid.*
121. For a good discussion of the effect the GATT might have upon current safety and health regulations, see Public Citizen, 1994.

122. The principle of national treatment requires governments to treat domestic and foreign investors equally.
123. United Nations Transnational Corporations and Management Division, 1992, p. 77.
124. Ibid., p. 83.
125. UNCTAD, 1994c, p. 5, para. 3.
126. Ibid., p. 6, para. 6; p. 10, paras. 16-18.
127. Ibid., p. 6, para. 4.
128. United Nations Transnational Corporations and Management Division, 1992, p. 79.
129. Ibid., p. 82.
130. Ibid., pp. 337-339.
131. See the section on “Non-governmental/citizen organization efforts” in part 1 of this paper.
132. This is an association of various Japanese industries.
133. United Nations Transnational Corporations and Management Division, 1992, pp. 91-92.
134. Ibid.
135. Ibid., p. 92.
136. Although the Levi Strauss guidelines are most likely the best in the industry, they have still been subjected to criticism for their non-binding nature; for not prohibiting sexual harassment; for guaranteeing only a legal wage and not a “living wage”; for not prohibiting the forced transfer of workers from one country to another; and for not providing special benefits to employees who have worked for a long time to make Levi Strauss products.
137. Zuckoff, 1994a.
138. Pitt and Groskaufmans, 1990, pp. 1634-1635.
139. Ibid., pp. 1630-1633.
140. Ibid., p. 1604.
141. Zuckoff, 1994a.
142. Ibid.
143. Scott and Rothman, 1992, p. 55.
144. Udesky, 1994, p. 665.
145. Ibid., p. 666.
146. Ibid., p. 665. The Department of Justice also raided subcontractor manufacturers making clothes for The Gap, Banana Republic and Ralph Lauren (ibid, p. 667).
147. Greider, 1992, p. 331.
148. Ibid., p. 352.
149. Zuckoff, 1994a.
150. Shuman, forthcoming.
151. Examples include tax breaks for investors, special economic zones for manufacturers and subsidies to companies engaging in value-added production.
152. Governments sometimes require investors to meet certain criteria before being granted access to a national market. For example, TNCs might be required to co-operate on balance-of-payments issues or employ nationals as a condition of market entry.
153. Samuels, op. cit.
154. Ibid., p. 133.
155. Ibid., p. 113.
156. DiConti, op. cit., pp. 108-112.

157. Ibid., p. 112.
158. Shuman, op. cit.
159. LeRoy, 1994, p. 43.
160. Zuckoff, 1994c.
161. See the sub-sections on “Consumer issues and health ramifications” and “Environmental resources” in part 1 of this paper.
162. See the section on “The rights of transnational corporations” in part 2 of this paper.
163. United Nations Centre on Transnational Corporations, 1990.
164. Ibid., paras. 7-46.
165. Ibid., paras. 49-55.
166. The Organisation for Economic Co-operation and Development (OECD) is the major policy-formulating body for industrialized countries. Members include Australia, Canada, Japan, New Zealand, the United States and the nations of Western Europe. The OECD revised its guidelines in 1979 and 1984 (Getz, 1991, p. 569).
167. American Society of International Law, 1978, p. 422.
168. These resolutions contain more detailed provisions than the United Nations code regarding countries’ sovereignty over their natural resources. However, they do not explicitly mention transnational corporations, are not legally binding, and possess no implementation mechanisms (United Nations, 1963, General Assembly resolution 1803, p. 15; United Nations, 1973, General Assembly resolution 3171, p. 52).
169. This document states that transnational corporations shall not intervene in the internal affairs of host countries, but is less detailed than the United Nations code. This charter is not legally binding, nor does it possess any implementation mechanism (United Nations, 1975, General Assembly resolution 3281, p. 50).
170. This document applies to both private and public entities involved in the pesticide industry with respect to labelling, advertising, distribution, training of personnel and disclosure of information.
171. Some human rights treaties such as the Covenant on Civil and Political Rights are binding on their signatories and possess established implementation mechanisms. On the other hand, there is disagreement as to whether these instruments regulate the conduct of private actors such as transnational corporations (United Nations, 1967, General Assembly resolution 2200, p. 52).
172. United Nations, 1980, General Assembly resolution 35/63, p. 123.
173. United Nations, 1985, General Assembly resolution 39/248, p. 179.
174. American Society of International Law, 1985, p. 1529.
175. This instrument applies both to public and private shipping entities (American Society of International Law, 1970, p. 1).
176. Shuman, op. cit.
177. Information for this section comes from CERES (1994).
178. Ibid., pp. 4-5.
179. Ibid., p. 3.
180. Asher, 1994, p. 8.
181. Pound, 1993, p. 1008.
182. Ibid., p. 1007.
183. Interfaith Center on Corporate Responsibility, 1993, p. 2.
184. Ibid.
185. Ibid., pp. 9-11.