

**The Challenge of Better Practice in the Oil and Gas Industry,
Dokumentation Tagung Evangelische Akademie Mülheim,
Redaktion Heidi Feldt, November 2000**

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PROGRAMME

Wednesday, 1st

13:30	Welcome and Introduction Heinz-Jürgen Joppien, Evangelische Akademie Mülheim Wolfgang Mai, Bread for the World
14:00 – 15:00	"Business and Human Rights in a Time of Change – new roles for the global players" Christopher Avery, International Lawyer, former Legal Advisor and senior manager at the International Secretariat of Amnesty International
15:00 – 15:30	Coffee break
15:30 – 18:00	Guidelines – Standards – Codes ... Some examples: <i>OECD Guidelines</i> Christopher Wilkie, OECD, Paris Duncan McLaren, Friends of the Earth/UK, London <i>Global Compact:</i> Beatrice Labonne, UN Dep. Of Economic and Social Affairs, New York Manuela Tomei, ILO, Geneva <i>EU Standards for European Based Enterprises Operating in Developing Countries;</i> Richard Howitt, MEP, Rapporteur to the Development & Cooperation Committee of the European Parliament Discussion: What can we learn from these examples for our intended dialogue between civil society groups and the oil industry? Moderator: Jens Martens, WEED
18:00	Supper

20.00

"Codes of Conduct: experiences, vision and reality, what can be learned from other examples?".

Participants: Clarita Müller-Plantenberg, Robin Aram and Participants from the afternoon session

Moderator: Jens Martens

Thursday, 2nd

9:00 – 9:30

Presentation of the "Principles for the Conduct of Company Operations within the Oil and Gas Industry", Heidi Feldt, (chairperson of the working group that prepared the paper)

9:30 – 10.00

Introduction to the working groups

10:00 – 12:30

Working Groups

Each working group will start with an introduction to the topic by a resource person, followed by commenting statements from representatives of the oil industry.

1. *Participation:*

Resource: Isaak Osuoka, Oilwatch Africa Network,
Company: Richard Brown, Texaco, USA

Moderator: Wolfgang Mai

2. *Human Rights:*

Resource: Mrs. Windmeißer,
German Ministry for Economic Cooperation and Development
Michael Windfuhr, FIAN

Company: Robin Aram, Shell-International, London

Moderator: Annie Heaton

3. *Environmental standards*

Resource: Charles di Leva, IUCN

Moderator: Serge Bronkhorst, IUCN

4. *Community and Stakeholder Relations*

Resource: Carlos Fierro,
Fundación Futura Latinoamericana,
Ecuador
Egbert Wesselink, Pax Christ, NL
Company: Vincenzo Boffi, Eni,
Rome
Moderator: Heidi Feldt

12:30 – 13:45	Lunch
13:45 – 14:45	Working Groups continued
15:00 – 16:00	Flip Chart presentation of results from working groups
16:00 – 16:30	Coffee break
16:30 – 18:30	Panel discussion What have we learned, where shall we go? Proposals for the continuation of the dialogue Participants: a cross section from the conference participants Moderator: Phil Champain, International Alert, London

SUMMARY

The first day of the joint meeting was dedicated to discussing the changing role of multinational companies in the age of globalisation. In particular, we looked at their responsibility for Human Rights. Chris Avery stated that human rights organisations, United Nations institutions as well as the general public are changing towards postulating companies' responsibility for the implementation of human rights, and companies are increasingly accepting this responsibility.

A company has "to anticipate and provide for human rights problems at any point in its operations in the same way that it has learnt to anticipate environmental problems" (Pierre Sané, General Secretary Amnesty International, 1998). Taking the example of Nike, Avery showed how a company addressed, and failed to address respectively, human rights issues and he concluded that codes of conduct and voluntary initiatives are important but not enough and that sustained independent monitoring has to be guaranteed. He said:

"A company code with adequate content and effective independent monitoring can play an important role in promoting and protecting human rights. But voluntary codes of conduct can never be a substitute for vigorous oversight of corporate behaviour by local authorities, national governments (both home and host governments) and the international community. Independent monitoring is essential to give meaning to codes of conduct, but should not be allowed to undermine (or to distract attention from) effective enforcement of national law and international standards."

The introduction was followed by examples of international efforts providing guidelines, standards and codes of conduct:

- Christopher Wilkie from the OECD (Paris) gave an overview of the OECD guidelines for Multinational Enterprises and the most recent review, which was concluded in June 2000. The Guidelines are non-binding recommendations adopted by the OECD member states as well as Brazil, Argentina, Chile and the Slovak Republic. The role of National Contact Points (NCPs) in adhering country governments is an important feature of the Guidelines, and has been further enhanced during the review. Governments, enterprises, trade unions, NGOs, and members of the interested public all have a role to play in the effective implementation of the Guidelines.
- Beatrice La Bonne presented the UN Global Compact underlining the precautionary approach of this initiative initiated by UN General Secretary Kofi Annan. It is a non – binding instrument that asks the private sector to embrace, support and enact a set of core values (9 principles) and getting MNCs engaged in activities supporting UN goals. Concrete examples of progress made and lessons learned will be published on a website. There is still an ongoing discussion about indicators for better practice.

- Manuela Tomei, representative of the ILO, focussed on the 1998 Declaration on Fundamental Principles and Rights at Work, its link to the UN Global compact and ILO's role in the promotion of the latter. The Declaration encompasses labour principles and rights, which are included in the UN Global Compact. They constitute the "social floor" of the global economy and the foundation of decent work for people everywhere, whether in the formal or informal economy. The ILO contributes to the achievement of the goals of the UN Global compact through the Voluntary Initiatives Programme that relies on a three-pronged strategy: a. building and disseminating knowledge on how to enhance socially- responsible corporate practices and management systems in the labour field; b. generating training material and capacity-building programmes promoting decent work in the workplace and community of operations; and c. implementing field projects, bringing together all relevant stakeholders, to back socially-responsible company initiatives and practices.
- Richard Howitt, member of the European parliament, explained the EU resolution on codes of conduct of European based enterprises operating in developing countries. The resolution was adopted by the EU parliament in January 1999 and reapproved by the newly elected assembly. Annual hearings will bring this issue on a regular basis onto the agenda of the EP. The EP recommended that beyond the EU code of conduct enforcement mechanisms on the European level such as the Human Rights conventions, the environmental agreements and the OECD guidelines should be referred to. The procurement system and the purchasing power of public procurement might also become an important factor in supporting good company performance. A European Monitoring system is needed though no system is in practice so far. To support NGO's and other organisation's initiatives promoting the discussion on codes of conduct new budget lines have been set up: B3-4000 (DG Employment) on the European level and B7-300 for Asia and B7-311 for Latin America (DG External Relations).

The concluding discussion focussed mainly on the controversy of legally binding instruments versus voluntary codes of conduct. While legally binding instruments tend to aim at the lowest level of standards, voluntary codes of conduct could achieve the highest. It was argued that companies need to have their own internal codes. External codes could be something like benchmarks for best practice. On the other hand codes of conduct were seen as useful but by far not enough as they are not enforceable.

There was a strong feeling that codes of conduct have a role to play but that they must not substitute national or international laws, conventions and agreements. With regard to our initiative in promoting dialogue between European civil society and oil companies, many linkages to the activities going on at European and United Nations level were pointed out, and these should be strengthened in future.

It was recommended to gather information on monitoring, and it was proposed to start pilot projects on monitoring involving local people.

Working Groups

On the second day the conference concentrated on discussing the following four key issues from the “Principles for the Conduct of Company Operations within the Oil and Gas Industry”:

- Participation
- Human Rights
- Environmental Standards
- Stakeholder Relations and Monitoring

The results of the four working groups are presented further down.

Final Discussion: What we have learned, where shall we go

After statements by different participants reflecting the round table conference, there was a common feeling that this conference was a stimulating event and could serve as a good starting point for further dialogue between civil society groups in Europe and the oil industry and that the future debate should be broadened to include government representatives and representatives from the south.

Though there was no concluding declaration of the Round Table Conference there was consensus that the conclusions and recommendations of the working groups should be followed up in suitable ways such as mixed working groups, workshops and further round table conferences. The NGOs present will consider setting up a European network which will carry on the work begun by “Bread for the World” and the German working group. This network will then organize further action on above proposals.

Heidi Feldt

Wolfgang Mai

INTRODUCTION

Wolfgang Mai, Bread for the World, Stuttgart

You may wonder why a church related development NGO like "Bread for the World" is getting involved with multinational oil companies. The reason is simple: We are observing a steady expansion of oil companies into marginal areas of the so called developing countries, and this expansion is linked with great expectations and hopes – but also with a lot of disappointments and frustrations. We have become confronted with the question, if there is any way in which we as a development NGO can contribute to helping our partners in the affected countries, can minimise disappointments and frustrations and help hopes and expectations to turn into reality.

This conference is one first practical step towards finding answers to this undoubtedly difficult and complex question.

The attendance of the conference shows that it is not only "Bread for the World" that is concerned about this issue but quite a number of related NGOs in Europe as well. There are many more who for one reason or another could not make it to Mülheim but have indicated their great interest in the topic.

Even beyond Europe are many organisations with similar interests. It is simply for logistical reasons that we decided to make a start on a European level.

We acknowledge that the almost complete absence of affected groups from the South is a serious shortcoming. Again, there was not enough time and energy to organise such an international meeting now – but we hope that Isaac Osuoka and Patterson Ogon from Nigeria and Carlos Fierro from Ecuador can readdress this imbalance to some extent and that planning for a truly representative conference may be one of the outcomes of our discussions tomorrow.

What can we realistically hope to achieve?

- a) Not a beautiful but meaningless declaration.
- b) Not the acceptance of our "Principles for the Conduct of Company Operations within the Oil and Gas Industry" as Magna Charta of future oil production.
- c) But more modestly:
 - i) Get to know each other better – motivations, objectives, possibilities, limitations.
 - ii) Identify areas where we agree – and those where we disagree.
 - iii) Work on pointers as to how areas of disagreement can be reduced.

- iv) Define more clearly the legitimate role and responsibility of NGOs in a field that is rather new to them.
- v) Come up with a few practical proposals on how we can build on to the beginning that is being made with this conference and close the gap between wishful thinking and hard realities, between paper theory and operational practice.
- vi) Jointly face the challenge to identify ways towards better practice in the oil and gas industry.

If you have had a chance to look at our proposed "Principles" you will have noticed that the term Human Rights plays a fairly important role in the discussion. We are glad to note that many multinational companies are nowadays acknowledging a certain degree of responsibility vis a vis the Human Rights Charter and the ensuing covenants. However, it is our impression that this responsibility is often a rather defensive one in that companies commit themselves to not contravening Human Rights Clauses. What we would hope to achieve is the beginning of a process in which companies play a proactive role and help implement the social and economic human rights. I am thinking particularly of elements such as Article 11 of the International Covenant on Economic, Social and Cultural Rights which recognizes the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The oil companies are instrumental in producing resources that could well contribute towards the implementation of this particular human rights clause. It is my hope that we can start discussing practical steps towards such proactive support of Human rights.

Some of you may know the term "Chatham House Rules". To my knowledge such rules state that whatever is said in a conference that is run under Chatham House Rules is to be taken as a contribution to that particular discussion and not as a public and binding statement. I very much hope we can subject our Round Table Conference to such rules: Let us be open and frank with each other, respect each others' points of views, work hard on bridging gaps where that is possible and allow differences to continue where bridge building is not yet possible – always making efforts to work for mutually acceptable solutions.

In this way I am hoping to have lively and interesting discussions and to end up tomorrow night with conclusions that will allow us to say: "It was well worth the effort and we have started a promising process!"

BUSINESS AND HUMAN RIGHTS IN A TIME OF CHANGE - NEW ROLES FOR THE GLOBAL PLAYERS

Christopher Avery, International Lawyer, London

I'm pleased to be involved in this conference, particularly because of the agenda's practical focus. My talk will address changes I've seen over the past few years, and suggest some priorities for future action.

Before I launch in, I should explain what I now spend my time doing, since the agenda describes me somewhat mysteriously as "International Lawyer; former Legal Advisor and senior manager at the International Secretariat of Amnesty International":

After working 12 years with Amnesty, I have spent the past 5 years focusing on the issue of business and human rights in my personal capacity. Indeed I want to make clear that everything I say today is presented in my personal capacity. I no longer have any formal link with Amnesty.

In 1996-97 I carried out field research in South Africa, India, Thailand and the Philippines, examining to what extent corporations were contributing to human rights and sustainable development through their community projects. My focus was particularly on those companies working in partnership with NGOs on grassroots projects.

After returning to London I had the opportunity to discuss human rights issues with multinational companies when they were first considering adding human rights principles to their codes of conduct. I have chosen not to do any paid consulting for companies, in order to maintain independence, but I think it is important for human rights advocates and business people to engage with one another in a serious way - another reason I am pleased to be at this conference.

More recently I wrote this 100-page report, *Business and Human Rights in a Time of Change*, published by Amnesty International UK Section in February 2000. It is a broad survey of the subject. My aim was to pull together in one place a summary of recent initiatives by human rights advocates, companies, governments, the United Nations and other intergovernmental organisations, and others. The report conveys how quickly events are moving, and how important it is for companies and for human rights advocates not to be left behind.

I also have set up a resource website on Business and Human Rights (www.business-humanrights.org), which contains:

- reports and guidelines by various organisations and authors (including the text of the Amnesty-published report that I wrote);
- recent United Nations and ILO reports; and
- links to more than 100 other websites dealing with business and human rights: the websites of NGOs, companies, the UN and other intergovernmental organisations, etc.

I would like to add to the website a link to Bread for the World's draft *Principles for the Oil Industry*, which I find very impressive.

As you know it's not easy these days keeping abreast of all the fast-moving developments relating to business and human rights. I'd like to quickly draw your attention to two information sources I have found very helpful - you may want to consider subscribing if you are not already doing so:

World Monitors
www.worldmonitors.com
 Weekly Online Newsletter

subscription cost
corporations: \$600/year for 5 subscribers
NGOs: \$300/year for 5 subscribers
individuals: \$300/year

World Monitors is a consulting group in New York that helps companies address human rights and other social issues. They issue a weekly online newsletter that summarises 10 to 15 developments each week, and guides you to further information on each development. Unfortunately it costs money to subscribe, but for me it is the single best source of information. You can go to their website and look at a sample past newsletter before deciding whether you want to subscribe.

Free e-mail updates with news about business and social responsibility
 Contact Jonathan Cohen at United Association of the USA:

jcohen@unausa.org

Another good source of information is the free e-mail service that Jonathan Cohen at United Nations Association of the USA provides. He collects together news about developments relating to business and social issues, and sends them by e-mail every week or two to a long list of interested people. If you want to join his list to receive his e-mails, all you have to do is send him an e-mail and ask to be added.

Now I would like to identify some recent changes we are seeing in this field.

Human rights organisations are changing.

Let’s take Amnesty International as one example. When I worked at Amnesty in the 1980s and early 1990s, business issues were not on our radar screen. That has changed, and Amnesty has now started hiring people to work exclusively on business issues. Several of Amnesty’s national sections are doing impressive work on business issues, and they often engage with corporations headquartered in their countries.

Amnesty International’s Secretary-General, Pierre Sané, was invited in 1998 to speak to an international conference of oil company executives and government ministers about human rights. The very fact that Amnesty was invited to the conference – and that Amnesty had something to say to the conference -- was a sign of how human rights had jumped onto the agenda of business, and how business had jumped onto the agenda of human rights organisations. Amnesty’s Secretary-General included the following statement in his speech to that conference:

“It is a company’s responsibility to anticipate and provide for human rights problems at any point in its operations in the same way that it has learnt to anticipate environmental problems. Policies need to be explicit and open. Mistakes may still be made, but secretiveness leads to the suspicion that these are at the best carelessness, at worst collusion.” [Offshore Northern Seas 13th International Conference and Exhibition, Stavenger, Norway, 25-28 Aug 98]

And it’s interesting to note that one of the driving forces of Amnesty International’s work on business has been Sir Geoffrey Chandler, formerly a senior executive at Royal Dutch/ Shell, now an Amnesty activist. Sir Geoffrey is the clearest demonstration to me that the world of business and the world of human rights are not necessarily mutually exclusive.

The general public is changing.

Public opinion is growing more sceptical and more demanding. Companies are realising that in a human rights or environmental dispute they can no longer depend on public opinion to give them the benefit of the doubt...in fact, just the reverse.

In the aftermath of the Brent Spar affair (the 1995 controversy surrounding Shell’s proposed deep-sea disposal of an oil installation), a MORI-conducted poll reflecting public opinion in seven West European countries showed the following levels of confidence in statements about the environment:

Public Confidence in statements on environment:

<u>Statement by</u>	<u>Level of confidence</u>
Academics	66%
Oil industry	27%
Environment Groups	63%
Government	29%

[MORI-conducted opinion poll, 1995, for The Oil Industry International Exploration & Production Forum]

Companies are changing

Many companies now explicitly refer to human rights and the rule of law in their codes of conduct, their policies, and their public statements.

Chris Gibson-Smith of BP Amoco recently observed: “As human rights has risen on the corporate agenda, multinational businesses are realising that the successful company of the 21st century will be one that can manage its social and environmental performance as effectively as its business one.”

Shell worked with human rights experts to put together an impressive primer for training its managers on human rights issues. Shell’s new business principles say Shell companies have a responsibility to “express support for fundamental human rights in line with the legitimate role of business”. Contrast that with what Shell Nigeria’s general manager reportedly stated during the period of military rule in Nigeria: “For a commercial company trying to make investments, you need a stable environment. Dictatorships can give you that.”

BP, Shell and many other oil companies including those represented in the room today, are engaging with human rights organisations. Their approach is increasingly open: admitting they did not always get things right in the past, and admitting they do not have all the answers for the future.

Many companies have made some real progress in the past 5 years, incorporating human rights provisions into their codes, providing human rights training to their employees, reviewing their supply chains and security arrangements with human rights concerns in mind. I congratulate those of you in this room, both from companies and from NGOs, who have played a role in that process. But there is still a long way to go to ensure that the reality on the ground matches the promises in the codes. Two participants in this conference (Patterson Ogon, Ijaw Council for Human Rights; Isaac Osuoka, Oilwatch Africa Network) are working on cases in the Delta area of Nigeria where they point to links between multinational oil companies and the state security officers committing human rights abuses.

The United Nations and other intergovernmental organisations are changing

Calls for business to respect human rights are not based only on morality and enlightened self-interest. International law puts a clear responsibility on business.

As many of you know, the preamble of the Universal Declaration of Human Rights calls on “every individual and every organ of society” to promote and respect human rights.

A leading international law professor, Louis Henkin of Columbia University, recently made this comment about the preamble:

“Every individual and every organ of society excludes no one, no company, no market, no cyberspace. The Universal Declaration applies to them all.”

The UN Secretary General and the UN High Commissioner for Human Rights are calling on business to play a greater role in promoting human rights and development. The International Labour Organization and the OECD have adopted principles for multinationals addressing human rights issues.

The UN Sub-Commission on the Promotion and Protection of Human Rights has started drafting a set of human rights principles for companies.

All these international standards are important in defining more precisely than the Universal Declaration what are the specific responsibilities of business. I am confident that over the coming decades further international standards will be adopted on this subject.

As for international mechanisms for actually enforcing the human rights obligations of business, unfortunately there really is no effective international court or forum where complaints about specific abuses by a specific company can be heard. Too often national courts provide no adequate remedy for the victims of abuses by multinationals -- because it is not possible to get jurisdiction over the multinational, or because international human rights standards are not adequately protected in national law or practice, or because the host country government and/or home country government lack the political will to hold companies accountable.

So too often victims are left without a chance to even have their complaints heard. This then feeds into growing popular resentment towards globalisation and the power of multinationals. There is a need for some sort of regional or international forum to fill the gap and to let both complainants and corporations be heard, in a way that will not threaten those companies which are behaving properly. I'm glad to see that Richard Howitt (Member of the European Parliament) will be speaking at this conference about the European Parliament's initiative (requesting the European Commission to establish an independent body of experts to monitor implementation of a code of conduct for European companies operating in developing countries, to identify best practices, and to receive complaints), because that is exactly what is needed.

On the subject of establishing the legal accountability of business under international human rights law, an important research project is underway which I want to bring to your attention. It is sponsored by the International Council on Human Rights Policy, which was established in 1998 to conduct research of practical relevance to organisations working in the field of human rights. You can think of the International Council as the leading independent "think tank" on human rights issues based in Geneva, it commissions input from the best and brightest human rights advocates in all regions of the world. One of their main projects underway now is looking at business and human rights, specifically:

- how international human rights law applies to business;
- what mechanisms exist to enforce human rights obligations on business;
- what are the current obstacles to effective enforcement; and
- whether there is a need for new international standards or new international mechanisms.

International Council on Human Rights Policy:
Project on the legal accountability of business under international human rights law

To register interest in being included in consultation, e-mail David Petrasek
(Research Director):
petrasek@international-council.org

International Council's website:
www.ichrp.org

For description of project on business, click "Research Programme", then "Projects",
then "Private Business"

Some very experienced international lawyers are involved in the drafting process. Early next year the Council's draft report on the subject will be circulated widely asking for comments and suggestions from a number of human rights advocates and NGOs, international lawyers, governments, business associations, companies, labour/development/ environmental organisations, and the UN and other international organisations. It will be a very open consultation process...if you would like to be involved in the consultation, just send an e-mail to David Petrasek at the International Council and tell him you would like to be included when they mail out the draft.

Now on to a subject I feel strongly about: the positive responsibilities of companies. I believe insufficient attention is being given to the positive responsibilities of companies. By that, I mean two things:

1. the responsibility of companies to promote human rights by using their influence and access to governments to urge respect for the rule of law; and
2. the responsibility of companies to use their skills and resources to contribute more effectively and more meaningfully to community development projects, education projects, environmental projects, human rights education projects, etc. I'm not just referring to philanthropy, but to how well a company really joins with civil society to address these issues effectively at a grassroots level.

Regarding the positive responsibilities of oil companies, one other issue arising in countries like Angola is the need for more transparency about how much money is being paid by oil companies to the government for signature bonus payments and social bonus payments. Only if those amounts are disclosed can it be determined to what extent the Angolan government is using that money for social development projects, and to what extent that money is being diverted into armaments or Swiss bank accounts while children in Angola starve to death. I realise that oil companies respond that they are prevented by contractual confidentiality agreements with the government of Angola from disclosing the amount of these payments, but there is a growing sense that oil companies and well-intentioned governments and international institutions need to get together to find some way of making this process more transparent.

Last week I was speaking with a former United Nations human rights officer who has discussed human rights issues with multinational oil companies in Africa. He argues

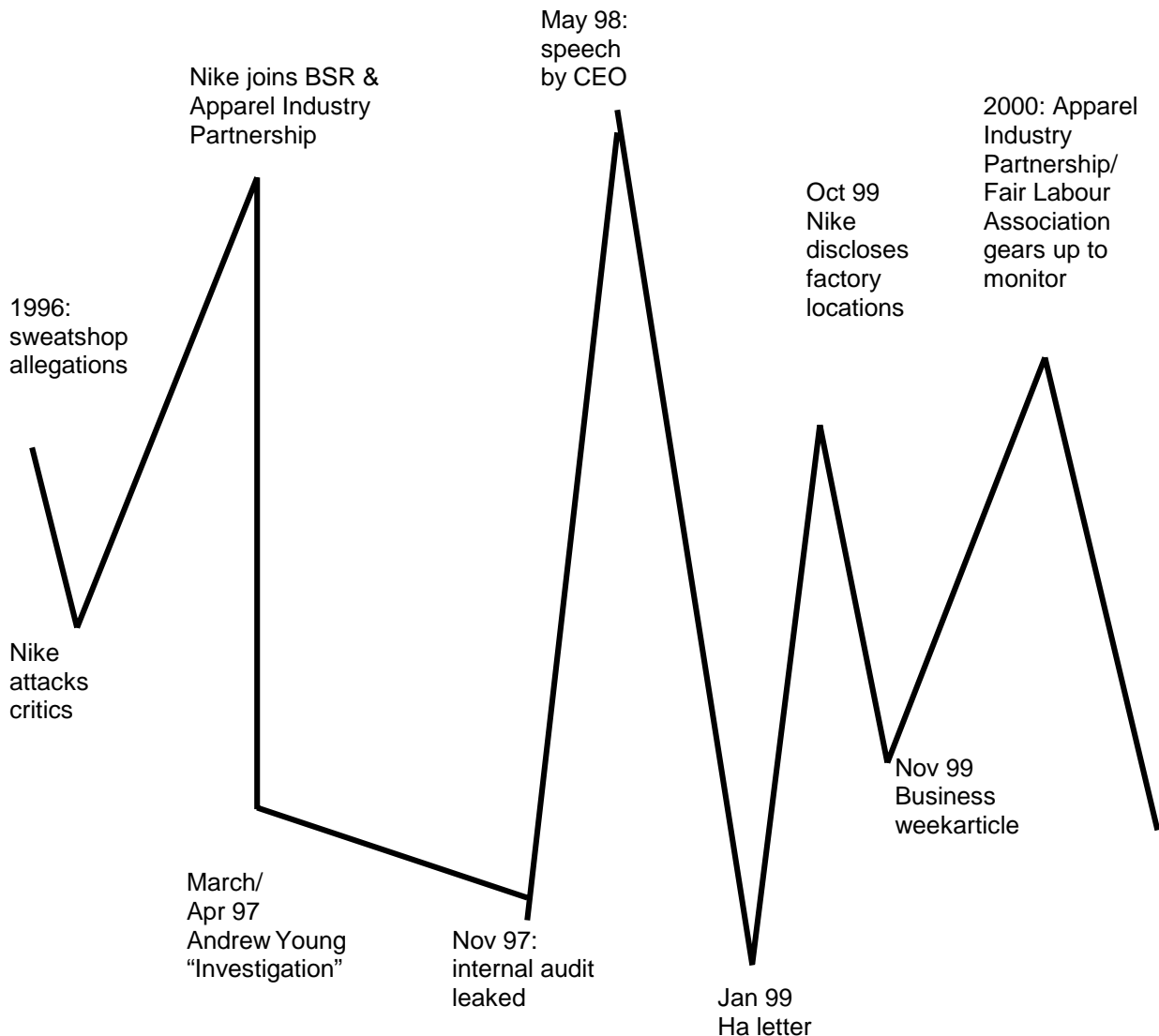
that oil companies have an incentive to play more of a leading and constructive role on human rights issues than some of them are currently doing. His argument is that because of the nature of their exploration/drilling projects and their massive investments, oil companies have a 25-year perspective in the societies where they operate - a much more long-term perspective than governments or NGOs tend to have. The oil companies have a long-term stake and should therefore recognise their enlightened self-interest in seeing civil society strengthened, in seeing greater respect for the rule of law, in seeing poverty and development issues more effectively addressed, etc.

For the remainder of my presentation I want to examine how one company -- Nike -- has addressed (and failed to address) human rights issues. I realise that this conference focuses on the oil industry, but I believe the experience of this apparel company provides lessons for all NGOs and for all companies.

I made every effort to research Nike in a careful and balanced way. I spoke directly with Nike critics, and with Nike managers. I tried to reflect Nike's achievements as well as its shortcomings. I sent an advance copy of my draft to Nike, giving them a chance to comment or correct any inaccuracies before the material was published (chapter 5 of my report *Business and Human Rights in a Time of Change* deals with Nike).

The following chart shows some of the highs and lows of Nike's response to allegations of human rights abuses.

Nike and human rights: Ups and Downs



1996: Accusations were made that Nike's Asian factories were sweatshops where workers were underpaid and mistreated. The allegations were specific and strong. Nike's initial response was all too typical of companies facing allegations of human rights abuses: it denied everything and attacked the critics, saying they had "suspect motives" and were engaging in irresponsible criticism, using outdated information. Nike tried to defend itself by citing its code of conduct, another tactic often used by companies when their human rights record is criticised. Nike issued the following statement:

"Wherever Nike operates around the globe, it is guided by principles set forth in a Code of Conduct that binds its production subcontractors to a signed Memorandum of Understanding. Every Nike subcontractor is subject to systematic, unannounced evaluation carried out by Ernst & Young. Our own reviews, as well as Ernst & Young's, have shown that the Code of Conduct is complied with in all material terms."

1996-97: As negative publicity continued, Nike took some steps to try to defuse the criticism. The company joined Business for Social Responsibility, as well as President Clinton's Apparel Industry Partnership.

March-April 1997: Nike sent Andrew Young to investigate alleged abuses in its Asian factories. Andrew Young is a black American civil rights leader, former U.S. Ambassador to the U.N., and former mayor of Atlanta.

Young took a 15-day tour of 12 Nike factories in Asia. His generally favourable report about Nike's record was strongly criticised on the grounds that he failed to do a serious job of fact-finding and investigation...it ended up backfiring on Nike, and damaged Young's reputation.

Young spent only 3 to 4 hours in each factory, his visits were pre-announced, he did not re-visit any factories, he used Nike interpreters during his interviews with workers, he had no way of knowing whether the interpretation was accurate. Asian human rights organisations noted that management of apparel factories typically tell workers beforehand when visitors are coming and ask them to behave well and clean up the workplace...and that workers probably assumed that the well-dressed foreigner was part of Nike and that they should therefore be careful what they said. Nike paid Young and his consulting agency for the report...both Young and Nike refused to disclose the amount of payment.

The lesson of the heavily-criticised Young report: today a company cannot clean up its image by hiring a high-profile consultant to do a one-off evaluation. Any monitoring process must be seen to be independent, thorough, sound and ongoing.

Nov. 1997: An internal report by Nike's auditing firm, Ernst & Young, was leaked to the press by a disgruntled employee. It ended up on the front page of the *New York Times*. The audit found workers at a Nike factory in Vietnam were exposed to carcinogens that exceeded legal standards by 177 times, and 77 percent of employees suffered from respiratory problems. The report noted employees at the site had to work 65 hours a week, far more than allowed by Vietnamese law...they were paid \$10 per week. This report was delivered to Nike in January 1997 but it was kept secret while Nike continued saying that there was no basis to criticise its human rights record. So Nike had this report before Andrew Young went to Asia...but Andrew Young was not asked to visit this factory, and his report did not address these serious health and safety issues. As one observer stated: "Either Nike withheld the Ernst & Young...audit from Andrew Young, or Andrew Young and/or his staff negligently or recklessly ignored the Ernst & Young report."

As for Ernst & Young, interviews of Nike workers at Indonesian factories indicated that Ernst & Young monitoring teams focused on 2 things: product quality and production quotas. Every single worker interviewed said that Ernst & Young monitors had never asked questions about workers or factory conditions.

Ernst & Young, PriceWaterhouseCoopers and other private auditing firms have failed repeatedly in their monitoring of human rights conditions. There is increasing criticism that these firms lack the independence and lack the experience in social issues to enable them to be the primary monitors of human rights issues. They can certainly contribute to the human rights monitoring process, but they should not be the ultimate assessor.

May 1998: In a major speech to the National Press Club, Nike's CEO Phil Knight made a dramatic about-turn: he announced that Nike would tighten air quality standards at its overseas factories to meet U.S. standards, would raise the minimum age of its workers, and would allow independent local labour and human rights experts to participate in factory inspections (and publish summaries of their findings). He was remarkably candid in his speech, going so far as to say: "It has been said that Nike has single-handedly lowered the human rights standards for the sole purpose of maximizing profits. The Nike product has become synonymous with slave wages, forced overtime and arbitrary abuse. I truly believe that the American consumer does not want to buy products made in abusive conditions."

That speech was welcomed by human rights advocates, but they cautioned that it was necessary to wait to see what happened in practice.

Early 1999: Nike hits a new low: it was discovered that Joseph Ha, Nike Vice President and a Special Assistant to Nike's CEO, made the following remarkable statement in an 11 January letter to Cu Thi Hau, President of the state-run Vietnam General Confederation of Labour:

Excerpt,

1999 letter from Nike Vice President Joseph Ha to Cu Thi Hau (President of state-run Vietnam General Confederation of Labour):

"It was obvious that a few U.S. human rights groups, as well as a Vietnamese refugee who is engaged in human rights activities, are not friends of Vietnam.

Their ultimate goal is political rather than economic. They target Nike because Nike is a high profile company and a major creator of jobs in Vietnam.

Nevertheless, this is the first step for their political goal which is to create a so-called 'democratic' society, modelled after the U.S.

No nation needs to copy any other nation. Each nation has its own internal political system. Nike firmly believes in this."

This letter was intended by Joseph Ha to be kept private, but it became public when the Vietnam General Confederation of Labour innocently published it in its official newsletter, then BBC radio picked it up.

When the letter became public, sources about labour conditions in Vietnam dried up. Because Nike had equated monitoring of Nike factories with political subversion, people inside Vietnam became worried about what might happen to them if they continued the monitoring work.

When international human rights organisations found out about the Ha letter they expressed outrage at Nike, particularly concerning what they considered to be "anti-democratic and authoritarian values" reflected in the letter.

The U.S.-based human rights organisations that sit with Nike on the Apparel Industry Partnership called on Nike to publicly reverse the position outlined in the letter and to

make clear to the Vietnamese Government that Nike values the work of human rights monitors.

In response, Nike argued that Vice President Joseph Ha was not speaking for Nike when he wrote the letter:

Excerpt, Nike's written response to those NGOs that criticised the letter written by Joseph Ha (Nike Vice President and Special Advisor to Nike CEO Philip Knight):

"Nike's position on this letter is perfectly clear – the views expressed in the letter were Dr. Ha's and Dr. Ha's alone; they do not represent the position of Nike and are inconsistent with what we have been saying and doing as a company.

We do not believe that one remark by one executive in a private exchange should be the basis on which our key relationships with the NGO community are predicated."

It seemed odd for Nike to argue that a letter on Nike letterhead from a Nike Vice President – a man who was one of only two Special Advisors to Nike CEO Phil Knight – did not represent the views of Nike.

I believe the strong public criticism of the Ha letter reflects public concern that some companies endorse social responsibility in their public statements, then turn around and send a very different message in their private discussions

In my opinion, one legacy of the Ha letter will be: in future, when business people say they are promoting human rights through "quiet diplomacy" with government officials, the burden will be on the company to convince sceptics that such private discussions are in fact taking place, and that the right issues are being raised.

October 1999: Responding to pressure from student protest groups in the U.S., Nike became the first large apparel company to disclose the names and locations of overseas factories which make athletic gear carrying the names of U.S. universities.

November 1999: *Business Week* magazine reported that a labour rights organisation had interviewed 2300 workers at 5 Nike factories in Indonesia and found that more than half the workers said they had seen colleagues yelled at or mistreated, and one-third said they had been compelled to work overtime.

Late 1999/early 2000: Nike says it's giving priority to implementation of its code of conduct. President Clinton's Apparel Industry Partnership has evolved into an independent monitoring mechanism, the Fair Labor Association, with the participation of some respected human rights organisations, so as soon as it gets up and running there will be some form of independent monitoring of conditions at Nike's factories.

October 2000: A few weeks ago BBC Panorama (weekly investigative television program by BBC) broadcast a hard-hitting program investigating labour conditions in Cambodian factories producing clothes for Nike and the Gap.

I show you a 4-minute excerpt from this show...the section where the BBC producers tracked down a group of female workers in one of the Cambodian factories, and discreetly interviewed them in their residence.

Video: text excerpt from BBC Panorama, investigating the factories in Cambodia which produce for both Nike and the Gap.

BBC presenter: “The workers we’re about to meet are all women. Talking openly about conditions in the factory is a big step. They’re scared. Our female producer went in first to reassure them.”

BBC female producer: “OK. They’re there. There are six of them there, six women.”

BBC presenter: “Well shall we go and do it? Will they actually appear on the camera then?”

BBC female producer: “I think...they seem a bit nervous. I think we should go in and introduce ourselves first of all, and have a chat with them.”

BBC presenter: “Shall we...let’s go down there.”

BBC female producer: “OK.”

BBC presenter: “It was a shanty town, close to June Textiles. The workers can only afford to live four to a room in rat-infested dormitories, without running water.”

[on entering the dormitory room] “Hi, hello, nice to meet you.”

[speaking to the interpreter] “Can they tell us who they make clothes for, just starting with this lady?”

[all responses interpreted into English]

Female worker 1: “Nike.”

Female worker 2: “Nike.”

Female worker 3: “Nike.”

Female worker 4: “The Gap.”

Female worker 5: “The Gap.”

[brief excerpt from a Nike commercial]

BBC presenter: “Time to test those codes of conduct. They say workers must have one day off in seven. Do you all work seven days a week?”

All five female workers: “Yes.”

BBC presenter: “What would the punishment be for taking a day off work?”

Female worker 5: “They force us to do whatever they want. If we refuse they make us sign a refusal. After three times they’ll fire us.”

[brief excerpt from a Gap commercial]

BBC presenter: “What about the rule that workers should not be forced to do overtime? Do they have to do overtime?”

Female worker 1: “Of course. Today I have to work overtime until 10 o’clock at night. I begin at 6:15 in the morning, and should finish at 2:15, but I have to work right through until 10:15 at night.”

BBC presenter: “They ask her to; can she say no?”

Female worker 1: “No matter how hard you try, you cannot refuse.”

[lights go out]

BBC presenter: “It’s all over...A power cut threatened to end the interview. [women light candles] But they’re common here, and the women are prepared. We moved on...”

The codes of conduct say there should be no harassment, abuse or corporal punishment against workers. But were those rules being enforced? Has she seen anybody cursed by the bosses, or hit, physically hit by any of the bosses?”

Female worker 5: “My boss was angry that I refused to do overtime. When I came back the following day to work, he pulled my hair. He swore at me and said something in a language I didn’t understand.”

BBC presenter: “Their basic wage is around £8 a week. It’s the legal minimum in Cambodia. Some of the clothes in America, some of the Gap clothes in America, a single shirt can cost \$30.”

Female worker 5: “If each month they pay every one of us the price of two shirts, we would feel better. But here we’re cheaper than the price of a single shirt, and I think we’ve been working like hell.”

BBC presenter: “If Nike and the Gap were doing what they said, interviewing workers, monitoring factories properly, enforcing their anti-sweatshop rules, why hadn’t they found what we had? [standing outside fence surrounding June Textiles factory] This isn’t the only factory we’ve investigated. We’ve looked at several others in Cambodia that produce for both the Gap and for Nike, and they seem to have one thing in common, which is persistent and serious breaches of their own code of conduct. It’s almost as if that ethical trading policy which these big labels trumpet in Europe and in America just doesn’t exist in any real way here. In fact we found five other factories in Cambodia manufacturing for either Nike or the Gap. We interviewed dozens of workers. Codes of conduct were regularly being broken, but no one we spoke to had ever been interviewed by a monitor.”

Neil Kearney (International Textile, Garment and Leather Workers’ Federation): “Major companies like the Gap, Nike, all those other retailers, they have almost a daily presence in these companies, they’re greatly concerned with quality, their quality controllers are there, their buyers are there. They insist on high standards as far as quality is concerned. There’s absolutely no reason why they cannot insist on the same standards for working conditions and why they cannot monitor those on virtually a daily basis.”

I believe the Nike case study is instructive. I do not consider it an exceptional case. Too many other companies have been through a similar process, and too many other companies in future will – I fear – react as Nike has reacted.

One lesson: If Nike and other companies had been more open and constructive in addressing abuses at the outset, they could have prevented damage to their reputation, and damage to their financial bottom line...and more importantly the abuses would have been remedied sooner rather than later.

But the main lesson of Nike and similar cases is the following: codes of conduct and voluntary initiatives will never be enough. It shouldn't be left to the BBC to find the abuses. There must be genuine, sustained independent monitoring...no exceptions. Whatever a company tells you about its human rights policies, the most important questions to ask about its code of conduct are: Does your code refer to the full range of human rights guarantees (for example, by referring to the Universal Declaration of Human Rights), rather than just selectively mentioning a few human rights standards chosen by the company? Do you have a system of genuinely independent monitoring? Who is doing the monitoring? (If the answer is Ernst & Young or PriceWaterhouseCoopers, that is not enough.) What are the guarantees of the monitor's independence and competence? Are you involving stakeholders in the monitoring process? How often is the monitoring carried out? Are the results of the monitoring published? Those are tough questions for an NGO to ask, and tough questions for a company to answer. But NGOs owe it to the victims of human rights violations to ask those tough questions, and companies owe it to the victims to provide clear answers.

I agree with the following statement made in Royal Dutch/Shell's 1998 social report. Referring to human rights and environmental disputes, Shell said: "People are withdrawing their trust in traditional institutions unless it can be demonstrated that such faith is warranted – what has been called a move from a 'trust me' to a 'show me' world."

What ultimately matters is not policy, but independently verified conduct. Very few companies in the world have so far established a genuinely independent, effective, and transparent monitoring system for their human rights conduct.

More attention needs to be paid to the substantive content of company codes of conduct. A company should not be permitted to use its code as a means of picking and choosing only certain human rights standards for which it wishes to be held accountable. Too many companies refer to human rights very selectively in their codes of conduct; some of them may be doing this to divert attention from their obligation to respect other internationally-recognised human rights standards not mentioned in their codes. International human rights guarantees are universal, interdependent and indivisible. At the very least, a company's code of conduct should refer to its commitment to respect the Universal Declaration of Human Rights before proceeding to list specific human rights pledges particularly relevant to the company. It is essential that codes of conduct explicitly refer to fundamental internationally-recognised rights of workers guaranteed by conventions of the International Labour Organization, including the right to freedom of association and the right to collective bargaining. These two rights are enabling rights, meaning they are necessary to enable workers to protect their other rights.

A company code with adequate content and effective independent monitoring can play an important role in promoting and protecting human rights. But voluntary codes of conduct can never be a substitute for vigorous oversight of corporate behaviour by local authorities, national governments (both home and host governments) and the international community. Independent monitoring is essential to give meaning to codes of conduct, but should not be allowed to undermine (or to distract attention from) effective enforcement of national law and international standards.

OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES

Christopher Wilkie, OECD, Paris

Guidelines - OECD Context

Year 2000 Review a Highlight of this year's Ministerial

Part of OECD Declaration on International Investment and Multinational Enterprises

29 Members and 4 non-Members (Argentina, Brazil, Chile, Slovak Republic)

Revisions two years in the making; first since 1991, fourth since 1976 inception

Guidelines Represent Shared Values

June 2000 Ministerial Statement "Shaping Globalisation": "The Guidelines provide a robust set of recommendations for responsible corporate behaviour worldwide consistent with existing legislation"

Guidelines complement corporate codes, in addition are both comprehensive and multilaterally endorsed -- by governments as well business groups, labour representatives, and NGOs

Guidelines express shared values of governments and their citizens with respect to MNE activity

Guidelines and FDI

Guidelines Review a timely initiative

FDI remains fundamental to economic, social and environmental progress

Guidelines respond to public concerns about the impact of MNEs on host societies - while improving international investment climate

Guidelines complement other governance initiatives, particularly of OECD (e.g. anti-bribery, corporate governance)

Guidelines - Textual Contents

Guidelines are supplementary principles and standards of behaviour - not a substitute for law

Revised labour chapter includes all four core labour standards and is consistent with 1998 ILO Declaration on Fundamental Principles and Rights at Work [freedom of association and right to collective bargaining; elimination of all forms of forced and compulsory labour; effective abolition of child labour; elimination of discrimination in respect of employment and occupation]

Revised Environment chapter [encouraging internal environmental management and contingency planning]

Revised Disclosure chapter - reflects OECD Principles on Corporate Governance and encourages social and environmental accountability

New chapters on combating bribery [solicitation and offering]; consumer interests [safety, labelling, complaints]

Recommendation on human rights - business and NGOs closely involved in negotiating: "Enterprises should...respect the human rights of those affected by their activities consistent with the host government's international obligations and commitments"

Supply chain dealt with: "Enterprises should...encourage, where practicable, business partners, including suppliers and subcontractors, to apply principles of corporate conduct compatible with the Guidelines" [qualified in commentary]

Guidelines - Implementation Procedures

Guidelines include unique implementation procedures.

Implementation procedures improved, but Guidelines remain non-binding

Guidelines addressed to business, but a network of National Contact Points (NCPs) in national administrations assist in promotion, handling enquiries, and helping to resolve issues in specific instances

Guidance established for NCPs, as well as CIME, to assist in carrying out their duties (NCPs: to promote transparency, accountability and best practice; CIME: to clarifying the meaning of the Guidelines and oversee their effectiveness)

BIAC and TUAC have special status with respect to the CIME;

NGOs and other interested parties may be invited to express views on matters covered by the Guidelines;

Non-adhering countries may also be consulted

Guidelines - 2000 Review Process

Review process was an important aspect of Year 2000 Review's success

Close involvement of the business community, labour representatives, as well as non-governmental organisations had a significant influence on the result and its legitimacy

Non-Member countries were -- and will continue to be -- consulted

Opportunities for public comment on successive drafts via the Internet meant increased transparency and openness and provided essential inputs

Guidelines Reflect and Complement Business Activities

Preliminary OECD research on almost 250 private initiatives indicate business commitments covering many Guidelines-related issues, including core labour standards, environmental stewardship, human rights, disclosure, corporate governance, public safety, protection of privacy and consumer protection

Labour relations and environmental stewardship are the most common issues covered in private codes.

Business Responding to Public Concerns in a Variety of Ways

In addition to private codes, business is responding to public concerns in a variety of ways:

Management support and recognition of non-economic issues and the importance of business contributions in this regard

Increasing business support for the development of independent standards (e.g. ISO 14000 [environmental management], Global Reporting Initiative [GRI - creating a common framework for voluntary reporting of economic, environmental and social impacts of organisation-level activity])

Business appreciation of “softer” issues contribution to the bottom line [Joint 1999 study by Dow Jones (USA) and Sustainability Asset Management (Switzerland): “companies with an eye on their ‘triple bottom line’ - economic, environmental and social sustainability - [tend to] outperform their less fastidious peers on the stock market”

Institutional investors increasingly looking at corporate social responsibility in determining investment strategies (e.g. 1999 CalPERS endorsement of “Global Sullivan Principles” on human rights)

Government Activity Complements and Aids these Efforts

Besides Guidelines, many other activities indicate public support for these efforts, e.g.

Global Compact initiative of UN, incorporating input from ILO, UNEP, and OHCHR

Independent ombudsman appointed to International Finance Corporation to assist “any community, group of two or more persons, or another party affected or likely to be affected by an IFC or MIGA project”

Guidelines remain the only multilaterally endorsed and comprehensive code that governments are committed to promoting.

Governments wish to demonstrate sensitivity to public concerns about the impact of international investment in a rapidly globalising international economy

Governments further demonstrate their commitment in new enhanced implementation procedures associated with the MNE Guidelines

Guidelines Part of A Package: The OECD Declaration on International Investment and Multinational Enterprises

The Guidelines are an integral element within the package of four investment instruments comprising the OECD Declaration on International Investment and Multinational Enterprises

Declaration: non-binding principles and standards addressed to both to governments and enterprises

The Guidelines, addressed to enterprises, remains an important part of this balanced package

This balanced package seeks to contribute to a favourable investment climate

Other elements of the Declaration: commitments by governments to provide national treatment for foreign-controlled enterprises; to avoid imposing conflicting requirements on enterprises; and to consult on issues relating to international investment incentives and disincentives.

Guidelines in the Future

Task of making the Guidelines a meaningful instrument has only just begun

Continuing support and involvement of business community, as well as labour representatives and NGOs crucial for Guidelines to be a useful reference point and tool for promoting corporate social responsibility

Non-adhering governments are important to this process; OECD Ministers expressly noted the importance of efforts to encourage them to adhere to the OECD Declaration

Ultimately, Guidelines effectiveness depends on responsibility and good faith of all parties involved with their promotion and implementation.

THE OECD GUIDELINES

Improving Corporate Performance and Accountability?

Duncan McLaren, Friends of the Earth, UK

Introduction

The OECD Guidelines for Multinational Enterprises are a broad-ranging set of guidelines and principles for corporate behaviour covering issues such as labour relations, environmental performance. They are not legally binding on companies, but set out the expectations of the 'adhering' governments within and beyond the OECD which have signed up to them. They were first adopted in the 1970s, and have since been revised several times. After an early period of trade union interest the Guidelines have not enjoyed a high profile, and by the time of the latest review had become both impotent and moribund. The OECD agreed the outcomes of a two year review at its Ministerial in June 2000.

The revised Guidelines

The review has improved both the Guidelines and their implementation mechanisms – but will it be enough to actively help improve corporate performance?

New text has been introduced on several topics, including sustainable development, human rights, application by suppliers and sub-contractors, environmental management, child and forced labour, and bribery and corruption. The breadth of coverage of the Guidelines is good – but not complete. They remain weak on consumer relations, leaving companies entirely free to promote unsustainable consumption. Nor do they address the transfer and promotion of unsustainable technologies such as nuclear power or genetic modification. Moreover, the detail in most chapters is weak and there are many loopholes which make these voluntary expectations even weaker.

The review has clarified the worldwide coverage of the Guidelines. But application is not the same as enforcement, and here the whole edifice looks especially shaky. The revised implementation procedure does provide opportunities for NGOs and indeed potentially any member of the interested public to raise concerns about possible breaches of the Guidelines with Government-established 'National Contact Points'

but offers no stronger sanction than the risk of companies being ‘named and shamed’ by Governments. In this age of inflated brand values, and corporate reputation managers this is not altogether toothless, but it does rely heavily on political will.

The NGO response

NGOs responded positively but challengingly to the outcomes of the review. A joint statement from 75 NGOs urged adhering Governments to “treat these Guidelines as only a first step in the right direction of establishing true corporate accountability and responsibility in the interests of achieving sustainability, and to take the following steps, collectively and individually: further improve, or as an absolute minimum, maintain the standards and recommendations set out in the current text; adopt implementation mechanisms which guarantee global application and implementation of the Guidelines; involve a presumption of transparency in both procedures and outcomes and are open – at all levels – to NGOs and the interested public; ensure the vigorous implementation of the Guidelines in an universal, transparent and inclusive manner, and not to allow the discretion of NCPs to lead to damaging variation in standards of application; and given escalating public concern over MNEs, agree to conduct a further review within three years.”

The current picture

It is still early to assess whether Governments are responding constructively to these challenges, but the early portents are not good. In the UK informal soundings suggest that very few companies are even aware of the new Guidelines, never mind beginning to assess their current performance against the benchmarks the Guidelines suggest. Perhaps this is not surprising, as the new promotional brochure being produced by the National Focal Point in the Department of Trade and Industry is still only in draft. It also appears that the UK is not lagging behind other NCPs in this respect.

Perhaps worse, the draft briefing by UK NCP has severe shortcomings. Charitably one might say it misleads business and encourages them to take no action. More harshly one would have to say that it betrays an unwillingness to in any way restrain the activities of UK companies. In particular it implies that breaches of the Guidelines outside of adhering countries are of little concern, because of the shortcomings of the implementation mechanism. There is consistent evidence that the only voluntary measures by business which work, are those which have transparent independent verification. But the UK would appear to be accepting the argument that it is better to trust business to take action behind closed doors, and entirely on its own terms.

As regards NGO responses, it would seem that the weakness of the implementation mechanisms and the relatively low levels of the standards is leaving NGOs largely disinterested, and waiting on the OECD to prove that the Guidelines are having some positive impact. At the same time the combination of poor visibility and weak implementation means that the Guidelines offer businesses little or no protection in the courts of public and media opinion – so businesses are unlikely to proactively adopt them.

So it seems likely that the Guidelines might rapidly return to the obscurity they previously inhabited. If the alternative is that they are used to excuse behaviour and practices by multinational enterprises which undermine sustainability – or that they are cited by Governments in ill-advised attempts to justify more liberalisation of trade and investment, then this might be a blessing in disguise. On the other hand, Governments could choose to implement them vigorously, and explore the opportunities that exist to create real incentives for compliance with these expectations. In our view Governments must link eligibility for discretionary support for companies – such as access to Export Credit Guarantees – to public endorsement of the Guidelines, and therefore withdraw or withhold such support from companies in breach of the Guidelines.

Implications for the dialogue and principles for conduct

This all reinforces the intense difficulty of implementing voluntary measures without adequate corporate accountability. The lack of transparency and independent verification of corporate performance against the Guidelines leaves them still largely impotent. And because the mechanisms for stakeholders such as local communities, consumers, environmentalists and even employees to challenge corporate performance are circumscribed, there is little interest amongst those groups (as yet) to use the Guidelines. This makes them of little value to businesses too. There are better ways to manage image and promote ‘greenwash’ – such as detailed sectoral “dialogues” which normally offer even less guarantee of accountability. There are also better ways to manage performance and prioritise improvement. The ‘Principles’ initiative will need to be carefully designed and strongly participative and inclusive for affected communities if it is to help us move forward by improving corporate performance and corporate accountability.

THE GLOBAL COMPACT

Beatrice Labonne, Senior Adviser, Dept. of Economic and Social Affairs, United Nations

The Compact is about values and principles, is a UN sponsored initiative intended to promote corporate social responsibility and citizenship in the global market place in order to make it a more stable and inclusive global market.

The Global Compact

Shared Values for the Global Market

Promoting responsible global citizenship

The key words of the Secretary-General of the United Nations initiative are transparency and dialogue. At the outset I would like to stress that the global compact also involve the civil society, NGOs in particular and international labour as well as at moment about 50 multinational corporation. The compact is not a substitute for command and control instruments. It is not a substitute for the mechanism, which are in the hands of governments. Quoting John Ruggie, Assistant Secretary-General, he claims his view of the compact is “open ended experiment, intended to identify, disseminate and promote good practice based on universal principles.”

Promoting Universal Values - Promoting open markets

“Thriving markets and human security go hand in hand, without one, we will not have the other.”(Kofi Annan, UN Secretary-General)

In early 1999, the Secretary-General Kofi Annan proposed a “Global Compact”, asking the private sector to internalise a set of core values within their sphere of influence.

The objective is to weave a core set of business – relevant universal values into the fabric of markets.

Doing so will help to re-establish a balance between economic imperatives and social priorities.

The Global Compact has a set of nine principles on Human Rights, labour and environment:

Human Rights

1. Business should support and respect the protection of internationally proclaimed Human Rights
2. Make sure they are not complicit in Human Rights abuses

Labour

3. Business should uphold the freedom of association and the effective recognition of the right to collective bargaining
4. The elimination of all forms of forced and compulsory labour
5. The effective abolition of child labour
6. Eliminate discrimination in respect of employment occupation

Environment

7. Business should support a precautionary approach to environmental challenges
8. Undertake initiatives to promote greater environmental responsibility
9. Encourage the development and diffusion of environmentally friendly technologies.

Very interesting is the principle number 7, because the precautionary approach is something business has difficulty with. There is no easy answer to the question how you can weave the precautionary principle in your business strategy and management tools.

How business can engage in the Global Compact:

1. Publicly advocate the Compact and the nine principles, integrate the nine principles in corporate strategies and activities. Strategies are easy, activities are difficult.
2. Post on the website (address: unglobalcompact.org) a concrete example of progress made and lessons learned, at least once a year. We want examples like changing management policy, changing practices, support of one or more principles, progress indicators on what is working, what is not working, what are the corrective steps, where are the difficulties, who can help. We do not want another glossy brochure we want real experiences.

3. Engage in an activity to advance implementation of the principles or advocate for a more effective UN or support UN goals through advocacy or partnership projects (examples are the International Chamber of Commerce with UNCTAD project on investment promotion in LDC's, Ericsson initiative for disaster response)

The following business associations joint the Global Compact International Chamber of Commerce, International Organisation of Employers, World Business Council for Sustainable Development, BSR, Prince of Wales Business Leader Forum, CB, Global Sectoral Associations and individual CEO's

The Global Compact has often been criticized by NGOs nevertheless various NGOs like Human Rights Watch, Amnesty International, Conservation International, Global Reporting Initiative, and Transparency International are part of the Global Compact, as well as labour organisations such as ICFTU.

The Compact aims at contributing to the process of change. More and more companies understand or seem to understand that giving lip service to standards of good management behaviour is not enough. The Compact aims at contributing to this process of sustainable change. At the highest level the compact looks for strategies rather than piecemeal initiatives. And it is a learning process.

From Principles to practice

1. Global Policy Dialogue

There are several strategic elements at the core of the Global Compact. Cooperation between the partners can be concretised – that is something the Secretary General believes very strongly in – companies can get committed to a global issue dialogue towards exchange of views to get a better understanding of the role of business in critical areas. For example, the first of such issue dialogue will be on business in zones of conflict. Other issues could be business and sustainable development, investment and poverty.

2. The second is –as I mentioned earlier- posting practices on the web.

3. Decentralisation

We plan to decentralize the compact at the regional and local levels.

4. Partnership Projects

will involve business and NGOs with UN agencies and for this Global Compact will only play a catalytic role.

Success criteria

The success of the Compact will be an increasing number of companies to join. So far we are close to 50 companies; the Secretary-General would like to reach the magic number of 1000. He would like to, as well, include companies from developing countries, and SMEs, build a strong dialogue between business, United Nations, labour and NGOs and specially strengthen the extend and quality of partnership of United Nations agency and the business community.

Finally the Global Compact doesn't ask companies to assume government's responsibilities, but to act convincingly within their sphere of influence. In Agenda 21, Business, as a major group is required to implement concrete actions, and in most of the international intergovernmental conventions.

The Global Compact is an instrument to encourage these actions. Recently, senior staff in the Office of the Secretary-General, Assistant Secretary-General John Ruggie, and Georg Kell have embarked on a series of conferences to explain, get feed back and rally support to the Global Compact, principally from civil societies organizations. I would like to share with you some of my colleagues' views.

The challenge facing the Global Compact is to make good use of the positive energies, which it has stimulated with business, unions and some civil society organizations. As Mr. Ruggie recently said during a NGO briefing in Geneva, globalisation has opened opportunities for multinationals, as they are both the drivers and the beneficiaries of the globalisation markets. However, the IT revolution has brought the former frontier regions to our doorstep. Multinationals are now operating in a fishbowl, and every one is watching them. There is no need to play the devil's advocate, cosyng up with the UN will not help to conceal misdeeds and dark little secrets. Very much to the contrary, the Global Compact is attracting increased scrutiny from all quarters. What it is hoped for, it is positive scrutiny, debate and concrete action. By the same token, publicizing achievements here, e.g. on the Global Compact website will not compensate for mistakes there.

The Secretary General embarked on the Global Compact because he believes it was the right thing to do, although it is an initiative freighted with danger. I believe that the visibility the Global Compact has so far reached is a sign of its relevance and may indicate future success. By the same token, falling into public indifference would have been a bad omen for the Global Compact.

In association themselves with the Global Compact, corporations are taking a calculated gamble. By aspiring to higher grounds, they are raising performance expectations from all quarters. As the New York Times wrote questions about ethics are serious business for bottom line conscious corporations. In the corporate world, ethics may now make the difference between the winner and the loser. The trailing edge may see a need for upgrading their own performance, or running the risk of being increasingly marginalized. The Global Compact participants and the UN agencies can facilitate this process.

The Global Compact has been referred to as a learning space, an open action model, or an institutional experiment. It can only succeed if it doesn't evolve into an anything goes space. It is based on a commitment to global values, which can be translated into actions, and improved performance measured against the nine principles. In case the Global Compact doesn't live up to expectations, it will be dropped. Through the Global Compact, the Secretary General committed his prestige to help reverse some of the perceived adverse attributes and effects of globalisation. My chief, Mr. Nitin Desai, USG for Economic and Social Affairs said at the UN General Assembly, that "it is precisely the mechanism of globalisation which have made it possible for us to find the mechanisms and political processes for addressing the problems connected with globalisation". For Mr. Desai the problem paradoxically stem from an "incomplete globalisation". Many of these problems arise from the fact that the basis for integration varies from area to area. Today's the so called world

trade is far from being worldly, many countries are left behind. This fact raises the concern that globalisation is adding to existing inequalities, both between and within countries. Mr. Desai also echoes the concerns of perceived governance deficit, a feeling that there are many elements of decision-making that are now increasingly outside the purview and influence of national governments and international organisations. The Global Compact can ease this perception.

The Global Compact is no beauty contest. It is not trying to please everyone, but everyone should stay alert. There are concerns that some perceptions and philosophies are hard to reconcile. Globalisation has its foes and stalwarts, and paradoxically both groups may join against the Global Compact. The former may accuse the UN of pondering to big business, at the expenses of its neutrality. The latter may argue that the Global Compact and the social responsibility its encourages are anti-liberal and equate to a form of new collectivism.

The Global Compact will immensely gain from the active and pioneering role of the oil companies. I believe that they can be agents of change, by facilitating and improving the stakeholder dialogue at the national and local levels. They can be instrumental in closing the gap between statement making at the global level and deeds at the local one. By the complex nature of their contractual and legal associations with both home and host country governments (joint ventures, production sharing, management contracts, etc.) oil companies will undoubtedly face maximum dilemma and challenge. Consequently, they can be Global Compact leaders.

Allow me to periphrases the statement made by major oil companies at the occasion of the 26 July meeting with the Secretary General. "The GLOBAL COMPACT may bring together key players and offer a great opportunity for addressing dilemma where even share values do not offer a single answer...it can provide an agreed basis for best practices which accepts the various responsibilities of those concerned."

The Global Compact is a learning process for the UN as well. Since the Global Compact is first and foremost a constructive instrument to stimulate and publicize good practices, its goal are central to the objective of this workshop.

Contacts:

UN

John Ruggie

Georg Kell

Denise O'Brien

kell@un.org

obriend@un.org

UN Office to the High Commissioner for Human Rights

Tom McCarthy

Scott Jerbi

tmccarthy.hchr@unog.ch

sjerbi.hchr@unog.ch

ILO

Geran Hultin

Jeanelle Diller

hultin@ilo.org

diller@ilo.org

UNEP

Jaqueline Aloisi de Larderd

Nancy Bennet

j.aloisi@unep.fr

nbennet@unep.fr

THE ILO TRIPARTITE DECLARATION AND THE GLOBAL COMPACT

Manuela Tomei, ILO, Geneva

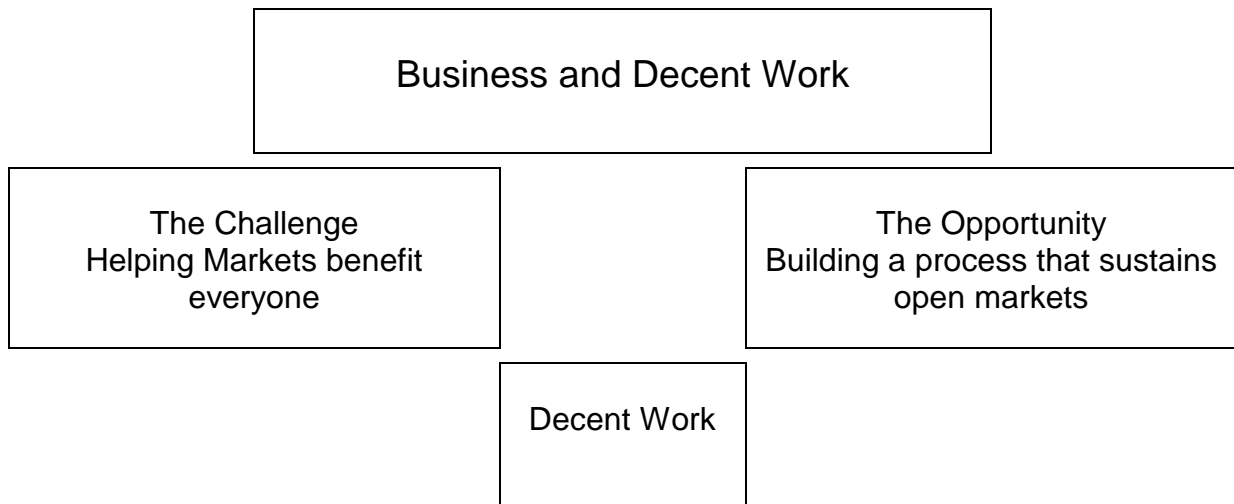
Before going to the point how the ILO is contributing to the Global Compact I would like to spend some words on the declaration of fundamental principles and rights at work, the ILO core labour standards. I think it is important to get some ideas what the meaning is and what the significance of this declaration is with regard to development in general and to business in particular, because this will help us to understand better the relationship between the declaration or the ILO and the global compact and other processes where the declaration has been adopted, for example within the framework of certain regional economic integration processes and also by regional development banks. And it is even more important here where we are talking about multinational oil companies. We know how powerful multinationals are and about the declining ability of the states and governments that cope with them. Nevertheless I think that the fact that intergovernmental and supranational organisations are bound to this principles is contributing to creating and enabling a favourable environment for the promoting organisations of principles and human rights.

So, I would like to start by referring to the today's ILO's challenges. We have a new director general who has actually reorganized the whole organisation somehow refocusing the activities and programs of the organisation and I would like to state rational to that and how the provision fits into the new paradigm.

Well as you know globalisation has been accompanied by growing inequalities between countries and within countries. The progress of reducing poverty and inequities has been extremely slow and uneven. The major challenge in today's world is to help markets to benefit everyone and generating opportunities at the same time.

The challenge is to build a framework which is conclusive and able to sustain not only open markets but making sure that everybody can actually benefit from the opportunity generated.

The ILO believes that part of the answer of this challenge and opportunity is decent work. What does this expression mean? It is about providing women and men with opportunities of getting engaged in productive work which is undertaken in conditions of freedom, security and dignity.



Decent work is the conversion focus of four specific objectives

How does the ILO promote decent work?			
Decent Work			
Promoting Fundamental Principles and Rights at work Declaration	Building opportunities for work	Protecting against social risk and loss of work	Strengthening social dialogue for stability in business and society

These objectives can not to be regarded as separate. They are mutually enforcing and ILO's work and activities has actually be reorganized with the view of promoting this objectives simultaneously.

With regard to the first block: 'promoting fundamental principles and rights at work' I would like to state that the ILO is concerned with all workers regardless of the economic activity or employment statues he or she is engaged in. In other words we are concerned about workers in sweat shops in New York, women workers in exportation zones in China, East Asia or Central America, wage workers regularly employed, informally and formally employed. The very important thing is that all workers, because of the fact of working, have the right at work. So this right exists not because a law provide or recognize the existence of this right. The declaration of fundamental principles and rights at work actually encompasses rights whose realisation by no means has to be subjected to the degree of the social economic development of the country.

The second block is building opportunity for work. The declaration is not only concerned about the quality of work or is not just about benchmarking the world with work, it is also about generating new job opportunities. Central to ILO's work is preserving the quality of employment. It is not just enough to generate job opportunities. This job has to be accompanied by certain working conditions, certain minimum adequate returns.

The third block is on protecting against social risk and loss of work generated. The ILO has always be concerned with human conditions of work, so it has the responsibility to address the social effects and loss of income which might be the result of unemployment, old age, sickness, work related accidents and so on.

And the last block is concerning social dialogue possibilities in business and society. The ILO is a very unique and special organisation within the UN system. It is a tripartite institution. In other words in our decision making body we have governments as well as employers' and workers' organisations that are represented. Dialogue and consultations have all ways been part of the dynamics and modus operandi of the ILO and are definitely existential requirements for ensuring social legitimacy to whatever outcome may be generated from the decision making process.

The declaration is somehow the ILO answer to the debate which is still unresolved about trade and social standards, trade and labour standards. In fact in Singapore in 1996 when the ministers of trade decided not to include the social clause in their own agenda they made clear that the organisation responsible for setting standards and for making sure that these standards are applied is the ILO. In that context they actually provided support to the ILO in its work concerning particularly the promotion of international recognized fundamental labour standards.

The declaration is a non binding instrument. It does not generate or create additional legal obligations. It is a very clear indication of the fact that the ILO does not endorse trade regulations or does not think that the best way or the most effective way of addressing the issue of violation of core labour rights in countries is by introducing trade sanctions. The declaration is regarded as the "social floor" to the global economy.

The declaration comprises four fundamental principles and rights

- Freedom of association and collective bargaining
- Freedom from forced labour
- Freedom from child labour
- Freedom from discrimination.

These principles belong together, in other words we can not expect to progress on one front, let's say on child labour if there is not simultaneously progress on the other three fronts. This has as well been advocated within the context of the Global Compact.

The declaration is the result of eight months of very intensive and heated discussions. It was a very typical process for the ILO and the views of the different stakeholders with regard to the convenience and opportunities of adopting such an instrument where quite divergent. But it was adopted and in fact it is really a universal

recognition of labour rights. The declaration is binding to the state members by the fact of their membership to the organisation. There is no obligation for member states to adopt core labour standards if they not have done so but they are obliged to provide information, to actually promote and make sure that the principles are practiced.

The last aspect that has to be highlighted is that the declaration actually reflects an international consensus on the content of core labour standards. In 1995 at the social summit there has been a discussion with the international community as to which standards are more fundamental than others. I think there is now a consensus in terms of the definition and recognition of what set of labour standards are really core.

What is the relevance and significance of these categories of principles?

There is a increasing evidence that these rights are inclusive to enhance productivity and to higher innovation. In an OECD study on trade and international labour standards which has recently been published shows that there is a positive correlation between foreign direct investment and countries with high labour standards.

Freedom of forced labour

Forced labour can not yield or generate any productivity gain, can not really result in high economic performance, and additionally it challenges the value of work as a key factor of production and economic and social progress.

Freedom from child labour

Child labour means neglecting opportunities, chances and choices of children in the future. It is also contributing to the lowering of working conditions and wages of adult workers.

Freedom of discrimination

There is plenty of evidence with regard to how inefficient from the economic point of view and how costly from the social point of view discrimination is.

What does the ILO do with regard to the Global Compact?

First of all, the ILO has a wealth of information with regard to labour issues by countries, with regard to national laws and practices on questions related to labour that might be of keen interest to companies, to NGOs, to trade unions and other stakeholders. The ILO in the framework of its supervisory procedures collects also information with regard to the comments formulated by the committee of experts of the application of the tripartite convention in ratifying countries. I think that the mayor challenge the ILO is facing today is to translate this comments and wealth of information into a language that is meaningful to business. The ILO is working on that. As you may know the ILO has a number of tripartite sector meetings which take place every year and which address emerging problems within the labour area. About two years ago there was a sector meeting on oil refinery activities. There is a day to day set up which is going to contain all information concerning policies, codes of conduct, labelling, certification and so on which are relevant to labour questions that have been adopted worldwide. This database will be available by 2001.

Another important afford of the ILO is to try to quantify and show what the advantages are for business as a result of complying the fundamental principles of right at work. A lot of research is now been carried out which is looking at how compliance of this labour standards is affecting business performances. And how this improved performances are impacting on working conditions of workers. The ILO is not involved in monitoring or certifying the compliance of certain companies on agreed principles. But what the ILO does, building upon its considerable experiences and expertise with regard to labour inspection, is providing training to monitors as well as to other stakeholders which have not yet reached that stage. We have the private voluntary issue programme that has foreseen to provide training to NGOs which might be interesting in monitor and verification activities.

We are doing a lot on technical cooperation which I have not enough time to explain.

All this translates in ILOs own principles and policies with regard how to deal with multinational and national companies.

EU STANDARDS FOR EUROPEAN BASED ENTERPRISES

IN DEVELOPING COUNTRIES

Richard Howitt, MEP

In my presentation I would like to explain the resolution from January 1999 of the European Parliament and to draw a few lessons for the discussion and share with you information on the follow-up that is taking place. But before that I would like to say something about building-up a relationship and the trust issue.

When I came here, I came by car and when it was cold yesterday I just switched the heater on. So yes, I rather like the fact that oil and gas is produced.

Secondly, I want investment, I want the gas and oil industry to invest in developing countries. 80% of all foreign investment in developing countries go into 10 countries most of whom are in Southeast Asia. But the poorest people mainly in sub-Saharan countries are missed. They are not getting industry in the first place, so I want these industries to invest there.

Thirdly, the companies are not monolithic. They are full of human beings themselves who have their own values and morals. So I think for those of us who come from an NGO background, it is important that we invite companies with good faith and that we recognize that they got a job to do.

To all oil companies and I welcome the five which are represented here, I would like to say to you when we criticize you or some of you for some of your contacts somewhere, you must also see that that is done in good faith.

I particular became known about four years ago for publishing allegations of complicity of human rights abuses against an oil company which is not here for their action in Colombia. I have been first hand to see what happened and I met people who spoke against the company who has been threatened, who lost their jobs, one had been killed and I met her husband. I submitted evidence to the authorities in Colombia. The person doing the juridical investigation was threatened herself and had to be relocated in the USA under a new name. It is pretty though in Colombia and it is pretty though for that oil company that has a legitimate interest in securing its

own stuff and its installations. But I came to the conclusion that this oil company through its voluntary agreement with the Colombian army which is well known for its human rights abuses has become accomplice in abuse of Human Rights.

When I made those statements in the European Parliament that company then used a lot of means to attack what I was saying and had a extremely defensive response.

So it is important for the discussion to recognize that yes we want companies and we want them to be successful but there are deep and difficult abuses going on in developing countries.

It is important that we don't think of this in terms of a flow down diagram. We have to think of its impact on peoples' life in developing countries.

The EP resolution from January, 1999

It was for the first time in 20 years that an international institution had voted for binding regulations over multinational companies and that brought a lot of people to put their hands up and worry about it. The aim is to bring forward a legal basis, to enable binding regulation.

The argument we brought forward was if a political will exists than it is possible to promote binding regulation.

- There is now a legislation in EU countries on sex tourism enabling to prosecute individuals, criminals back here.
- There is now a legislation which enables to prosecute companies representatives responsible for giving bribes back here in the north for what they do in the south.

The 1968 Brussels Convention states that a company can be sued in a country where its registered office is for legal cases in European courts for actions in third countries where it is deemed that this is the best place to get justice. In June 2000, after 3000 asbestosis victims gave evidence against Cape Company which is a UK based company, Cape was taken to the British House of Lords. It was not successfully prosecuted but the admission that it could be prosecuted within Britain was coped with at the highest level.

I would like to say to those of you who say that standards can only be voluntary: 'In cases like sex tourism, bribery, basic issues of neglecting fundamental rights it is taken differently, so why a company can't take that further.'

We said in the resolution "it is not an either or". We say that voluntary codes have a part to play. Some of you would disagree but we say in our resolution that they do play a part and that voluntary initiatives can rise standards. You can have legally enforced standards but you can have voluntary commitments that rise those standards. They two can be seen together. We know it will take some time to get the political will to create that legal base.

The third thing we did was to consider if there should be a single European code of conduct. You might think we concluded saying yes but after two years of discussion

we concluded the answer is no. The business people don't want any more regulation, the trade unions were actually unhappy with some regulations because they assumed it might water down existing standards in the ILO and OECD and when you look at it from the perspective of the developing world, the local regulation which are there don't seem to be very effective so why another set of regulations sitting in the north could actually have any effect. So we came to the conclusion that there should not be a new set of regulations but that we should come up with an enforcement mechanism at the EU level which would better enforce as far as our European enterprises are concerned minimum applicable international standards. This includes the OECD Guidelines, the ILO Tripartite Principles, all the mayor Human Rights conventions and particularly as far as the oil and gas industry is concerned it includes the mayor environmental agreements, including the Kyoto Protocol, the UN Convention on biological diversity and ILO Convention 169 on indigenous peoples rights. All these international standards exists. By and large countries have signed them, developing as well as industrialized countries. So it is not a question of colonialism or imperialism. But to assure that companies by themselves are supporting these standards it seems to make a lot of sense.

There should be the setting up of a European monitoring mechanism. How it could work, I don't know, we don't claim in the resolution that we have a blueprint for this. The idea that you can have only one body at the EU level who is then monitoring what happens in 500 million working places over the world is obviously fanciful. But what we say there can play a role for monitoring enforcement at the European level. It should be effective and impartial. We know that the European Commission will take time to get that into place. Hence, the European Parliament decided to organize annual hearings where on a voluntary basis we invite companies to come and provide evidence and have them at the table so that we actually can keep the momentum behind the resolution.

We talk in the resolution about the importance of the EU development co-operation. We can do a lot in terms of technical support to governments in developing countries to integrate international agreements in domestic legislation and to develop their own inspectors.

We have instruments to stimulate investments, including the new investment facility that is going to 78 countries in the African, Caribbean and Pacific region and we can assure that companies which win EU contracts are themselves complying with fundamental human rights. Because the treaty of the European Union include fundamental rights the commission is legally bound to ensure that they are enforced by companies they work with. This is an extremely interesting finding.

We were talking about using different instruments at the EU level including the social dialogue between employees and trade unions and that, of course, operates in the oil and gas sector as well. The trade unions –in oil and gas case represented by the international mine workers union- have a very important voice in the social dialogue. In the dialogue we are talking about providing incentives to companies that achieve higher standards. Again it is a legally grey area. Some people got worried but there are some incentives around: in Denmark in terms of the environmental performance, the government has an incentive in its procurement guidelines towards companies that achieve higher environmental standards. We talk about developing that at the EU level.

Finally we talk about the European Union's role in the international institutions. We don't think that action on the national level is a substitute for action on the EU level and we don't think that action on the EU level is a substitute for action at the global level. All of them can be compatible with each other and certainly we took the view that the EU is a block within the ILO, within the OECD and could actually be a progressive force in terms to make this instruments more attractive.

The ILO tripartite declaration only treated 7 cases in 20 years. It is a long way to go to make that more effective – let's be clear about that. But we should not waste our time complaining what we should discuss is how it could become more effective.

That's what the resolution says.

What are the lessons for our discussion?

1. Anything that is not based on international standards should be out of quote. The OECD study showed that from 233 codes of conduct studied only 18% referred to international standards many of them have fancy wording like 'we want to be nice to people'. You cannot monitor that. You cannot say that is effective or not. I noticed that one of the UN Global Compact principles on the environment is that we want companies to undertake environmental initiatives. Using a handkerchief instead of a paper tissue might be an environmental initiative. We need to have serious international standards if we want to go anywhere.
2. There is a need of a mechanism for implementation. A London Business School study shows that from 78 codes almost half of them have not even been published. So board directors have a set of principles and do not tell anyone about them. Less than half have not given them to their own staff, let alone the debate on independent monitoring. We know that it is not as easy as just saying: 'we want independent monitoring'. If the companies are paying for them it is even more important that they are independent. And it is not the job, NGOs have to do. Their job is to be independent, the same with the trade unions. So it is not an easy issue to find an answer to. There is an answer somewhere around independent verification. People often talk about the relationship to financial accounting which progressed over a number of years till it got to a state where you have a rules based system, so that financial accountant can not just do what they want. We probably need to go through the same process for social accounting. That is one of the things we have to discuss.
3. We must actually look at the whole issue with the perspective of improving peoples welfare and not just to defend corporate reputation. Save the children found out that in 7 codes they studied companies were saying no to child labour that means no children under 15, 18 years in their day to day team. Companies putting that in their codes it is all about defining their reputation and nothing about giving employment income opportunities to 15 years old people in developing countries around the world. We have to keep the focus on increasing welfare.
4. Finally I insist, we must involve people from the south. If these principles for the oil and gas industry are going to mean anything, if there is anything serious about implementing these standards we must involve people in the

South who are directly experiencing the effects of companies activities in very difficult circumstances. The people from the South have to be involved in drawing them up and implementing them. I know that is a long process and a painful one.

Finally, let me share some good news about the follow-up on the resolution:

1. The new European Parliament confirmed its support to the resolution from January 1999 after the European elections.
2. We set up some budget lines:
B3-4000 on codes, labelling and ethic codes initiatives. with 2 Mio. Euros per annum (several projects have been agreed till now, one is a study on the question whether a monitoring instrument is necessary, other are on labour conditions in Turkey or benchmarking north-south best practices).
There are three development budget lines on codes and pilot monitoring projects done by initiatives in the south. They are B7-300 (financial and technical co-operation with Asian developing countries), B7- 311 (economic co-operation with Latin American countries), B7-643 decentralized cooperation. All of these have a budget remark supporting monitoring pilot initiatives from the south *“intended to cover support for trade unions, non governmental organisations, and local initiatives to monitor the impact of European investments on the national economy, particularly codes of conduct and sectoral agreements incorporating respect for labour, environmental, social and human rights standards.”* I think that it is crucially important that we start getting European funding to groups in the South to undertake pilot projects on European enterprises from these budget lines. In July 2000 the DG Development said none applied for the money so far. Therefore I strongly urge you to contact your Southern partners and to bring forward proposals for using the available money.
3. The European Parliament’s hearings.
The first one will take place the 22nd of November. The Parliament’s development committee will hear evidence presented on marketing of baby milk substitutes in Pakistan and the sportswear clothing industry in Indonesia. In the list of future social actions that is published by the Commission in 2002 corporate social responsibility will be included.
4. We got an agreement for communication on procurement and social policy.
That seems to me extremely important because it is public money, tax payers money supporting improving standards and enforcing them through contractual agreements with companies.
5. The issue of European monitoring. In the states an initiative is now evolving to independent monitoring mechanism on what is happening in third countries. I am confident that in the fairly near future the European Commission will announce that they are going to undertake a voluntary monitoring initiative by independents with a number of companies in third countries.

I think it is a quite successful resolution for only one year. If you agree with things I said than help make them happen. Apply for the budget-lines, go on lobbying. Without pressure from outside we won’t be able to get forward.

THE PRINCIPLES OF CONDUCT OF COMPANY OPERATIONS WITHIN THE OIL AND GAS INDUSTRY

Heidi Feldt, Essen
chairperson of the working group on the Principles

The Principles were developed by a group of German NGOs - all of them working with partner organisations in developing countries which are directly or indirectly affected by oil activities. At the beginning of the discussion process three years ago we were thinking in a code of conduct and we ended up with a set of best practice principles in the field of oil and gas activities based and sustained by international standards, conventions and declarations. We did not reinvent the wheel but we put together what already exists on the international level.

The first draft of the Principles was sent to a wide range of social and environmental organisations mainly in Europe, Africa and Latin America asking for observations. We got quite a few comments which were incorporated in the paper. At the same time, the chair of international law of the University of Mannheim revised the principles. So we think now we got a comprehensive set of principles which from our point of view are the base for discussion with the oil companies and which might be as well a useful tool for local initiatives somewhere in the world negotiating with oil companies.

I would like to make it clear: our concern is not whether Asian, Latin American or African countries should or should not exploit their oil resources. Our concern is how to prevent negative impacts of oil exploitation and to generate a public discussion in the northern countries. We see the northern headquarters of the oil companies responsible about how oil exploitation is carried out and we are convinced that we need a public debate in the North on the impacts of the whole product line of oil.

On a preparatory meeting we had in June 2000 at this academy we were discussing the Principles and came up with four crucial topics which we would like to discuss with you:

Participation

Who are the stakeholders? Who is defining that? What is the scope of participation? What are limits? What should be the content of participation? What is the role of NGOs?

Human Rights

What is the responsibility of MNCs for the respect and implementation of Human Rights in a globalised world? What are the instruments? How could MNCs become more sensible towards Human Rights issues? What is their own expertise and where do they need / want external support?

Environmental Standards

Do overall excepted standards exist? Is there a set of good practise? How can they be monitored? How could transparency be guaranteed? What are the crucial issues concerning the product line of oil?

Monitoring

Is there a need for independent monitoring? What exactly is independent monitoring? Do we know good examples of independent monitoring? Are guidelines and institutions already build up? What kind of institutions do we need? Which experiences concerning complaint mechanisms exist?

Working Groups

PARTICIPATION

There was full agreement in the group that *Participation as a general principle* must be applied as widely as possible and that it was the best guarantee to minimise future problems. It was obvious, however, that great efforts are still necessary in order to reach consensus on the *specific scope of participation* in any given situation. There must be clear differentiation between information and consultation on the one hand, and genuine participation in planning and decision-making processes on the other, and it has to be understood that the provision of community development projects has little to do with participation.

The group made some recommendations for follow-up and further action:

- a. It is necessary to create an enabling environment for participation. Steps in that direction could be taken through regional dialogue processes in Africa, Asia and Latin America, and the ILO could moderate these.
- b. In each situation site-specific elements need to be taken into consideration, which means that also on the micro-level dialogue processes are necessary, and these, too, ought to be moderated by "neutral" persons or organisations.
- c. Governments as well as companies must be urged to include the principle of civil society participation firmly in their political and business principles.
- d. Ways must be found to enhance the capability of civil society groups to become strong and substantial counterparts in any participatory process. This will have to include the provision of funding.
- e. It is obvious that participation is more likely to succeed where good democratic practices are in place, while it has fewer chances in dictatorially governed countries. Companies can prepare the ground for more democratic participation by providing the structures and environment for open and honest dialogue with civil society groups.
- f. Where companies are embarking on the process of giving themselves a code of conduct they should make sure that all stakeholders are involved in the formulation in a participatory way so that all sides can genuinely own the process. Eventually such a process should lead to a jointly accepted and signed contract.

Participation, too, will have to be submitted to continuous independent monitoring.

Summarized by Wolfgang Mai

PARTICIPATION IN THE CONTEXT OF NIGERIA

Isaak Osouka, Oilwatch Africa Network, Lagos

Lack of participation of people in oil and gas development is one of the factors that exacerbate the negative impacts that have come to be associated with the oil and gas industry. We have a situation where an industry with exploration, exploitation and transportation processes that constitute the most environmentally and socially destructive of all human activities carry on with total disregard and in contempt for local populations. In the underdeveloped oil bearing countries, the reality is not just a case of lack of participation by local populations but the lack of power to participate.

Transnational oil companies receive license to operate from states that hold sovereignty over natural resources. Sovereignty in most underdeveloped oil bearing states means the total expropriation of the right to ownership and control of communal land by the central government. So that with the natural rights to own and manage land taken away from communities, the communities are powerless to express their opinion when communal lands are allocated to oil companies as "oil blocks". The situation is made worse by the fact that the governments are unrepresentative of the peoples as the political processes that throw them up, if not through coups, are undemocratic.

I want to say from my experience in Africa, particularly, the Niger Delta of Nigeria where I work with communities affected by the violence of the oil and gas industry, that "participation" will be of little use as long as communities do not have their natural rights to land recognized by the state. As long as oil companies do not require the permission of communities to take over farms and forests for oil drilling, any consultation process initiated by oil companies will continue to be mere formalities. This is the case in Nigeria, Ghana, Benin and Togo where the sponsors of the West African Gas Pipeline are still talking about plans for future consultation with communities and other "relevant stakeholders" after plans for the project have been (mostly) concluded by the consortium and gas sales contracts signed. Consultation here, as with most oil and gas companies and projects are meant to inform the people about decisions that have been taken and to fulfil a public relations agenda. Even an Environmental Impact Assessment is yet to be carried out, though the project will be built in 2001.

Sometimes, a company may decide to build some kind of project for their "host community". But most times, as we experience in Nigeria, these "community development projects" are dumped for communities who don't know what to do with it, as they were never consulted about it. For example, a Shell fish drying facility for Iko community is rotten away as the people don't understand the idea. Shell didn't consult. There are very many cases of the kind.

Apart from limitations imposed by central government land decrees, a conducive atmosphere should exist for useful consultation to take place. Too frequently, soldiers

accompany oil company officials to visit communities. The menacing presence of soldiers stifles communication. Especially in areas where soldiers and government security operatives are known for the killings of innocent community people in the name of protecting oil installations. Genuine security for lives and property, including industry installations can best be guaranteed with a democratic and representative setting where rights are respected and community livelihood is protected from the destructive impact of the oil and gas industry

The point we try to make is that "participation" as a principle we all endorse for all development processes that will impact on people cannot be pursued in isolation of other necessities such as legal recognition of community rights to land and democracy in all spheres of national life.

I will also say that in tune with the participation principle, this process, that is, the process of developing a set of Principles for the Conduct of Company Operations within the Oil and Gas Industry should be participatory. It is not enough for it to be designed and developed by European groups and passed over to Southern groups for endorsement and monitoring. If Southern groups, who are closer to the realities of the negative impacts of the oil and gas industry have to defend these Principles, they have to own it, by participating in the development of its content and character. Or it will be another project imposed on us by Europe.

TEXACO'S DOMESTIC AND GLOBAL PROGRAMS

Richard Brown, Texaco, USA

Domestic Programs

Texaco Management Institute - Direct Service

Emerging Leaders Program - Grants to NGOs

Texaco Global Fund

- Established in 1999 to broaden Texaco's Philanthropic Reach
- Focus on indigenous NGO

Grantmaking Focus

- Education
- Capacity Building in NGO Sector
- Preserving Cultural Heritage

Rationale for Creation of Texaco Global Fund

1. The Fund enables Texaco's Corporate Contributions and Community Relations (CCCR) department to establish and implement a comprehensive and consistent international giving strategy

2. The Fund enables Texaco to communicate its contributions mission universally thereby establishing a worldwide corporate presence and reinforcing Texaco as a responsible corporate citizen and a preferred partner
3. Enables the CCCR to develop an international program that builds on domestic program
4. The Fund enables Texaco to support indigenous Non-government Organizations (NGO) that are equivalent to IRS Certified Charities (501C3 organizations)
5. The Fund supports a global grantmaking program that targets issues that have relevance in locations strategically important to Texaco
6. The Fund will allow the Business Units to partner with CCCR to heighten the impact of locally made grants by enabling the local units to leverage money from the Fund
7. The Fund is not intended to replace grantmaking by overseas Business Units

International Goals

1. Position the Texaco Global Fund an organization committed to improving education, strengthening NGOs and preserving indigenous culture where Texaco operates abroad.
2. Foster strategic relationships and partnerships with key groups including U.S. government agencies (USAID), in-country NGOs, and the United Nations to identify and support projects in West Africa, Kazakhstan, Brazil, Venezuela and the Philippines.

Working with Third Party Organizations / NGOs

In 1997, we surveyed internal and external stakeholders to find ways to improve and increase the effectiveness of Texaco's philanthropic program, including our relationships with NGOs in the communities where the company operates. A very extensive evaluation was undertaken and internal and external stakeholders were interviewed to record their perceptions of Texaco's corporate social involvement. The evaluation provided us with both positive and negative responses about the company. This was our first attempt to pro-actively gather information from the NGO community about our community relations' programme.

Now I would be misleading you if I said that all the recommendations provided were incorporated into the grantmaking programme. However, we certainly took suggestions from community leaders to increase our participation and support of African American, Asian, Native American and Latin American governed organisations. And that was one of the most significant ways that the non-profit sector influenced our new corporate giving guidelines. That's on the national (US) level.

We also have local programmes in what we call Texaco "home towns" (Houston, Texas, Westchester County, New York, New Orleans, Louisiana, Hobbs, New Mexico, Denver, Colorado, and Bakersfield, California). In these locations, we have a very organised approach to interacting with the non-profit sector. Texaco supports

organisations in the community through direct grants, in-kind support, and by participating in annual campaigns of the local “United Ways”. The United Way movement is a community fundraising effort that was created by business to raise money from companies and employees to support NGOs in the community.

Texaco is actively involved in the communities where we operate. For example, our employees sit on the boards of non-profit organisations or volunteer their time to provide direct service to the community. Examples of volunteer activities include working with organisations that support women who have experienced domestic violence, spending time working in local soup kitchens, and tutoring young people.

I think having NGO representatives actively involved in our decision making process, helping us decide how we provide support to the community, is not as advanced as recommended in the “Principles”. We certainly involve community people, but not to the degree the document suggests.

How Texaco operate domestically is being replicated on the international level. As responsible corporate citizens, we are always trying to find ways to support our business objectives while we support the communities where we operate. We have been assisted by several NGOs, including San Francisco-based “Business for Social Responsibility” (BSR), which has been particularly helpful. We work with them to identify organisations in communities where we have business activities. We have commissioned BSR to produce country surveys in Nigeria, Indonesia, Venezuela and Ecuador.

Taking that a step further and focusing more directly on Nigeria -- a very important country to Texaco’s future growth. Nigeria's future will have a profound impact on Texaco's bottom line because of the importance of our off shore operations. TOPCON, the name of the business, is a joint venture between Chevron, Texaco and the Nigerian Oil Company. The Nigerian Oil Company owns 60% of this joint venture. Texaco owns 20% and Chevron the other 20%. Texaco is the operator and all our facilities are offshore.

While visiting Nigeria last year, I had the opportunity to speak with some of the NGOs that we are work with in that country. One extensive conversation that stands out was with Dr. Charles Akinola -- the former head of Technoserve in Nigeria and founder of a Lagos-based NGO called “Enterprise for Development International” (EFDI). Dr. Akinola received a grant from Texaco to conduct a community survey, which included interviewing community leaders about the needs of Delta residents. His assessment will help Texaco determine what types of projects are feasible in the Delta. One specific program currently being considered is the building of a vocational school to provide practical training to young people in the Delta region.

Our partnership with EFDI demonstrates the utility of working with a third party organization to provide a needed service for Texaco that adds value to our community relations' efforts.

We have collaborated with EFDI to come up with a community relations strategy for the Delta. I could not possibly understand the complex nature of Nigeria and the situation with the tribes in the south. The dynamics between the north and the south would probably take a lifetime to understand. So it is very important that Texaco has someone who understands the situation in that region. Moreover, EFDI has identified

a local NGO in the Delta to assist with some of the survey work in the south -- an organisation based in Bayelsa State.

Our company recognises the importance of the NGO community. To demonstrate our support, we've established a program in the U.S. called the "Texaco Management Institute" (TMI) -- a non-profit management training program that runs twice a year in Houston, TX and Washington, D.C. The TMI program provides leadership and management training to NGO leaders for an intense, three-day workshop. We feel that providing this training to the NGO community is replicable. And we are thinking of recreating this effort in Nigeria with NGO leaders from the Delta region and other parts of Nigeria.

Finally, I would just like to mention the programmes we have in Angola under an agreement with USAID. We are supporting a homeless girls project in Luanda (World Learning and Angop) and an HIV/AIDS prevention program in cooperation with USAID, US Angola Chamber of Commerce, UNAID, and Population Services.

HUMAN RIGHTS

There was a consensus that Human Rights include the civil and political as well as the social, cultural and economic rights and that companies have a corporate responsibility for the Human Rights enforcement. (Affected) communities should participate in the design and process of social impact work.

The working group defined several areas for further discussion:

- a. Should norm setting and monitoring be done by governments, NGOs, IGOs or the private sector. Who should do that? Who should pay?
How to strengthen local capacity? Should companies focus first on own core activities? (direct contacts? Promotion?)
What are the companies' responsibilities with regard to things that should be done by government? What should be measured?
How to strengthen local capacities?
- b. Who should be involved? (in monitoring / assessment)
How to involve those directly affected?
How to deal with changing situation?
- c. Risk Assessment
Risk assessment plays a key role for decision making.
Should plans for pulling out of an area be part of a risk assessment?
How are risk assessments done? What is the role of social aspects?
- d. No Go areas
Should there be no go areas?
More analysis of positive and negative impacts of investment in conflict areas should be undertaken (difference)
- e. Managing a Model for monitoring and measuring behaviour
Managing flow of information
obstacles: process
involving all companies and stakeholders

There is a need to develop human rights indicators for industry (not just company indicators), which has to be discussed furthermore.

Recommendations of the group:

- Keep talking and encouraging the industry
- Citizens participation in audit processes
- Help to develop indicators

Summarized by Anne Heaton

THE COMPANIES' PERSPECTIVE

Robin Aram, Shell International Ltd., London

Human Rights

Responsible business conduct

Not a new subject e.g. South Africa

But expectations change

Greater public awareness

'CNN world', growth in NGOs

Transition from a 'Trust me' to a 'Show me' world

Calls for greater transparency

New markets opening up - location of oil and gas resources

Evolution of corporate responsibility -

Health, safety, environment, security, community relations, human rights, sustainable development, conflict resolution, humanitarian support

Pension fund legislation, Turnbull, Federal Sentencing Guidelines, ethical investment funds, codes

Shell's journey

Not a newcomer to responsible business behaviour - Business Principles published since 1976.

Experiences like South Africa, Brent Spar and Nigeria sharpen awareness!

Current phase began in 1994/95 - reorganisation and transformation process

First internal policy statement on human rights in July 1995

Revised Business Principles in 1997 - incorporating human rights and sustainable development

Development of new and enhanced business and implementation processes

Shell and Human Rights I

Raising awareness

Revised principle on political involvement

Primers on business and human rights, child labour

Workshops in key countries - China, Middle East, Nigeria

Guidance materials on Business Principles in Joint Ventures and with Contractors and Suppliers

Enhanced understanding

Engagement with key human rights NGOs, church groups, governments, inter-governmental agencies

Recruitment of people with different experience

Shell and Human Rights II

Changes to business processes and practices

Investment proposals for projects in sensitive countries to include assessment of human rights risks

Introduction of Sustainable Development Management Framework

Revised security policy including Use of Force Guidelines including consultation with NGOs

Security and human rights guidelines

Shift from community assistance to community development

Business principles/sustainable development elements on scorecards

Incorporation of best practices - Camisea (Peru), Malampaya (Philippines) etc

Progressive expansion of EIA to social impacts

Community issues studies e.g. China, Oman

External Reporting

Internal - new Annual Letter process to complement existing processes on business integrity and HSE

External - Shell Reports

Developing external verification and Key Performance Indicators

Conclusions

Policy framework and guidance largely in place

Human rights becoming embedded in business processes e.g investment appraisal, Annual Letter process etc

Good practice being transferred across the Group

Social impact work continues to develop - SEIAs

Continuing engagement with NGOs, UN agencies and governments on these issues

External reporting - steady progress but KPIs for human rights a challenge

Shell Foundation 'Sustainable Communities' programme.

ENVIRONMENTAL STANDARDS

The following issues were addressed at the workshop:

- Level of Standards – which level should be followed

What do we mean with the term ‘environmental standards’?

What norms are applicable to TNCs? What can be considered to be the minimum norm: the norms of the home state, the norms of the host state or the most favourite of these two? Or perhaps the environmental norms as included in international treaties? The Principles are not addressing this issue: more research should be undertaken to clarify this issue.

- Work on more binding norms

Voluntary codes of conduct cannot and may not replace binding regulations.

The initiatives regarding voluntary codes should be seen as a parallel approach or strategy that takes due care of the other process which focuses on establishing and improving a binding legal framework for TNCs operating abroad.

In this respect Charles Di Leva emphasises the necessity to improve national legal systems (regulations and enforcement) in developing countries. In the ‘Principles’ the need for capacity building in developing countries is lacking.

- Comments on Chapter 5 of the *Principles*

- Header: Environmental Framework

Instead of “Environmental Standards” it is more appropriate to name it: “Environmental Framework”. This latter term is broader and includes also legislation, enforcement and management. These issues should be addressed by Chapter 5 as well. (under capacity building?)

- Format of Chapter 5 of the Principles should be revised

Chapter 5 begins with “International Best Practice of Companies” and concludes with a principle on “Environmental Impact Assessment”. From a practical point of view, it is more in conformity with the process in practice to begin with a provision or principle on EIA which is a precondition to the final objective of best practice.

- ‘Principles’ are mixing up the responsibilities of states and those of private persons.

This is a serious shortcoming of the “Principles”.

Especially in Chapter 5, many principles attribute obligations and responsibilities to oil companies while these obligations and responsibilities are within the exclusive competence of states. Environmental norms included in international treaties are addressed to the state parties. Whether or not certain environmental norms also include direct obligations and responsibilities for non-state actors should be examined more closely. Under specific conditions, human rights obligations may apply to the private sphere as well. It is uncertain whether this also applies to environmental norms. An example of this problem can be found outside Chapter 5 as well. Principle 8.5 regarding the Complaint Mechanism states: *Companies should support the establishment of an independent and accessible complaint mechanism (...)* The organisation of the legal system is under the exclusive competence of the state. With view to the sovereignty of states, it may be very inappropriate to require an active TNC involvement in internal state affairs.

Conclusions:

1. Codes of Conduct must not take the place, time or efforts to improve national legislation and enforcement mechanisms
2. “Principles” are interesting source of reference but not sufficient to address the TNCs behaviours as a whole. Some of the principles contain responsibilities more directed to governments than to TNCs. More research is needed on this.
3. Instead of the heading “Environmental Standards” it is better to speak of “Environmental Framework” which includes legislation, management and enforcement
4. NGOs can play an important role in high lightening the ‘good’ companies and the ‘bad’ companies by presenting objective facts and by presenting solutions.
5. Clarify purpose of the ‘Principles’ and the purpose of the dialogues with companies – ensure it is not counter-productive by creating an escape from legal obligations or weakening potentially innovative new legislation
6. Linkage to human rights should be better explored. Occasionally, violations of environmental norms can be enforced through international human rights law. (Lopes Ostra-case, European Court of Human Rights)
7. Further discussion on the better use and improvement of existing dispute settlement mechanisms. This, together with capacity building on the national level, may be better than demanding TNCs to support the establishment of (new and specialised) complaint mechanisms in developing states.
8. Clarify “accountability”: legal responsibility, liability or social responsibility?

9. Clarify which level should be compiled with. International best practise is too vague. What is best practice? What norms do prevail? Home-state regulations, national legislation of the host-state, or the best regulations of these two?

Summarized by Serge Bronkhorst

COMMUNITY RELATIONS

Based on examples given by Fundación Futura from Ecuador and Eni, Italy, it was concluded that:

- Stakeholder participation is crucial for the sustainability of oil projects. Governments have to provide the legal, political and institutional framework for participation and monitoring.
- It is a difficult but important question to define who genuinely represents the stakeholders. Companies have to respect the internal decision making processes of local communities and should respect their time frame.
- It is important to balance the imbalance of power in the different negotiation and dialogue processes between the different actors. More good examples of real negotiation processes are necessary.
- There is a need for establishing among the stakeholders involved (local communities, local and national government authorities, the oil companies and other relevant actors) a negotiation framework, detailing the relevant criteria, procedures, duration and expected outcomes, for each phase of the whole process of oil production. A communication platform on better practices in this area might be helpful.
- It is necessary to enable the affected local people (in financial terms and in their capacity) to do the monitoring of the oil activities by themselves. How to do that and who should pay for it?
- It is very important to make companies accountable for their social and environmental performance. Indicators have to be developed and agreed by the stakeholders. The issue of accountability and indicators needs further discussion. Further workshops on this topic are important and should include the participation of representatives of people's organisations from affected countries.
- A basic requirement for any kind of accountability is the access to information. Are companies prepared to guarantee free access to the information needed for accountability?
- The "Principles" are not gender sensitive. In a revision of the "Principles", this important aspect has to be included.

Summarized by Heidi Feldt

AN ECUADORIAN EXPERIENCE IN DIALOGUE AND NEGOTIATIONS BETWEEN INDIGENOUS PEOPLES AND OIL COMPANIES

The Secoya-Occidental case

Carlos Fierro, Fundación Futuro Latinoamericano, Quito

The Fundación Futuro Latinoamericano (FFLA) is a non profit organisation devoted to promote sustainable development. Its headquarter is in Quito, Ecuador. Main work areas are conflict management, policy dialogue and training. We are currently working in a 18-month project to promote tripartite dialogue between the oil industry, governments and indigenous leaders, as part of a Carl Duisberg Gesellschaft funded initiative coordinated with World Bank's program "Energy, Population and Environment".

The Secoya Occidental Case

Case background

- Participation contract between Occidental Exploration and Production Company (OEPC) and Petroecuador in bloque 15.
- Bloque 15 overlaps in part with Secoya territory who are the legal owners
- Seismic exploration area is partially inside the Secoya Territory close to one of the three communities

Situation before facilitated process

Secoya people

Previous direct compensation agreements between the affected community and the oil company were later void by indigenous organisation

Lack of trust in oil company representatives

Lack of accurate information on the exploration process

Oil company

Contact with Secoya representatives but no participation in the planning process

Previous relation with Secoya and other communities in the area lead to direct compensation agreements

Lack of trust in the Secoya leaders

Process followed by FFLA

Exploratory meetings with both parties to verify commitment for dialogue

Definition of a "Dialogue Table"

Consensus of the dialogue agenda

Establishment of a dialogue process

Conduction of the dialogue meeting

Facilitation of the "Code of Conduct" process

Facilitation of the negotiation process

Follow-up of agreements

Products of the process

"Code of Conduct" ruling the dialogue and negotiation processes

"Compensation Agreement" establishing exploration process standards related to:

- culture
- environment

- employment
- information
- participation
- monitoring.

Code of Conduct establishes:

Mutual respect

Transparency and honesty

Dialogue only through official representatives

Access to information

Dialogue table includes representatives, authorities, advisors and observers

Decisions ratified by constituencies

Company provides funding for dialogue

Creation of follow up commission

Compensation Agreement

The agreement enables the company to conduct exploratory activities in Secoya territory, to perform 2D and 3D seismic tests, to build up 4 platforms (6 ha. Max. total of land clearing), and drill up to 4 exploration wells in a 9 month period.

In correspondence the oil company commits itself to observe environmental and social standards and compensate the Secoya people, as follows:

1. Respect for the Secoya culture regarding:
 - language, history, traditions, festivities, names
 - social and political organisation, relations and decision making processes
 - self determination and economic and cultural enhancement
 - oil workers not allowed to go or stay outside oil facilities or take individual contact or deals with community members.
2. Environmental measures:
 - all effluents are treated before discharge
 - no solid or liquid wastes allowed in rivers, streams or other water courses
 - solid by-products in special self-contained cell

re-injection of formation water in wells
perforation platform only clears 1.5 ha forest
abandon plan reforestation with natives species, local work and monitoring
independent and official monitoring

3. Independent Monitoring

Secoya people have an independently funded monitoring team whose work is coordinated with oil company technicians
monitoring team is responsible to inform the Secoya people as well as to report problems to the oil company

4. Official Monitoring

Regularly performed by national environmental protection agency and also reported to Secoyas

5. Follow-up and controversy resolution

Follow-up commission established to resolve day-to-day problems. Monthly meetings

6. Other resolution stages

dialogue table
Parties highest representatives
Chamber of commerce mediation

7. Other considerations:

no wood purchase from Secoya people
Permanent information on a weekly base
No incentives to foreign settlers
Secoya workers selected by indigenous organisation
Mutually agreed press statements to mass media

8. Compensation funds distribution:

15 % in direct funds for families' basic needs
40 % in community projects on health, education and food production
45 % (less if exploration fails) for a trust fund
base compensation plus differential amount depending on exploration results.

OISE – OXY participation features

Dialogue table includes almost all stakeholders

OISE workers in equal conditions

Non limited access to information

Dialogue funding provided by OXY but mutually agreed and administered by a church organisation (Fondo Ecuatoriano Populorum Progressio)

FFLA is providing training in negotiation skills and community capacity building.

Lessons learned

- Independent assessment needed to:
 - understand the oil industry and its potential ecological and social and cultural impacts
 - understand technical information
 - understand local community decision making processes and culture
 - assess decisions involving technical, or legal, administrative issues and options
- Good, clear, accurate and opportune information is the base for durable decisions
- Oil industry is complex to understand even for people with academic background; multiple and reiterative explanations could be needed for a long term negotiation.
- Information is a long term commitment
- Decision making process is different for each party:
 - while oil companies have a corporate decision making process and hierarchy is strictly respected, communities have stakeholder consultation processes which takes more time and frequently needs second and third ratification by its constituencies.
- Dialoguing cultures and dialoguing ways are different, and this has to be taken into account at any time in the process.
- Indigenous frequently need to talk among them in their own language. Sometimes translation is appropriate to allow them to express freely in their language.
- The establishment of a “code of conduct” or similar ruling framework for the dialogue creates mutual trust, allows to explore alternatives and positions of central issues in anticipation to negotiations and provides a trial- and – error scenario for future relations.

THE COMPANIES PERSPECTIVE

Mr. Vincenzo Boffi, Eni Community Relation's Manager

With this contribution to the Conference I'll try to give you the sense of our business principles and community involvement, while, in the same time, share with you some personal perceiving.

It seems to me that nowadays we are facing a sort of paradox.

While Companies seek for commercial opportunities; Governments (all governments) are in continuous competition for investments, skills, technology and access to markets (that Companies can bring).

But in the same time Governments are also (very often) neglecting the universal values that the international institutions have adopted providing moral basis for what we do (cross political, cultural and religious boundaries), creating a world of growing inequality and conflict, that threaten the companies more than ever before.

Then, in an era of accelerating economic processes and global communication, how long will Companies be able to manage opportunities and threats without repositioning themselves in the new scenario reconsidering their "Corporate Practices" in order to better sustain their license to operate?

What is the role that business should play and whether it should take on broader social responsibilities are issues that are part of a greater debate that has been going on these last years (and this conference is yet again another important example of the dialogue that exists on such issues between all the "players" or stakeholders" present in society).

The challenge of better practice is a debate that originates firstly from the important structural changes taking place in our societies, but also reflects the growing public awareness and changing expectations toward the concept of "Corporate Responsibility"

The Company I represent (Eni) is one of the world's major integrated

Oil and gas companies; established in '53 as a "state owned Company"; incorporated as "joint stock Company" in '92; floated in the market between '95 and '98 (almost 70%); having a leading international market position; third largest oil and gas Company in Europe; Seventh in the world; with operations in more than 70 countries.

In pursuing his Mission *"creating value for its shareholders through the continuous improvement of cost efficiency and the quality of its products and services"* Eni

contributes to the economic and social development and well-being of the communities and countries where it operates, while at the same time respecting their environment, culture, society and laws.

This attention and care we have for the needs of our communities has always been part of our way of “*doing business*”.

They are principles that are quite familiar to us as they are firmly embedded in the history of our Company.

Back in 1953, when Eni moved its first steps, our Company’s founder was not only focused on creating a successful energy Company.

He was also firmly convinced that the Company could have played a significant role in helping to improve the living conditions in the post-war Italy and, moreover, contribute to the modernization and development of the Country.

Internationally, this quality has been translated in promoting and pioneering mutually beneficial business relations with oil producing Countries.

Is what we like to call the “*Formula Matte*”: establishing 50/50% joint ventures; promoting technology transfers; providing organizational assistance and training of personnel and creating employment opportunities.

We at Eni are all convinced that the basis of this tradition of collaboration and mutual exchange comes from the full awareness we have that the success and the standing of a Company in business also depends on the quality of the relations with its Stakeholders.

We believe that the development and growth of business (to be effective) must go hand in hand with those of the communities.

While this means that, as an active player in society, Companies must fulfil and meet certain social obligations, such commitment must be coherent and fully integrated with Company operational objectives and strategies.

The bottom line is that the first and foremost contribution to the socio-economic well-being of the communities is achieved by operating as effectively and efficiently as possible.

These above said principles are clearly outlined in our “*Code of Practice*”, a code which was first approved in 1994 and which meant that Eni became one of the first European multinationals to have a set of internal rules and regulations governing its business conduct and in general its relations with its Stakeholders.

In all the countries where we are present - and in line with Eni’s basic ethical and social values - we have actively pursued a policy of respect of local populations’ human and civil rights and have forged - over the years - sound and effective relationships of co-operation with local communities.

A wide number of initiatives (mainly in the fields of health care, education and social development) are implemented - in collaboration with local authorities and the

beneficiary communities themselves - to promote the conditions for a sustainable development.

In our community relation activities we are: *“committed to removing barriers to the development of local aspirations, to promoting the exchange of technical and scientific know-how and capabilities, as well as to providing support to local autonomous initiatives”*.

We also believe that our “approach” to the well-being of the community must start from its most valuable resource: *“the individual”*.

Our social commitment must address those aspects of community life that can be improved (education and health care) or preserved (environment and culture) so that individuals can be given the opportunity to live and prosper and integrate themselves in the fabric of society, and - in the end - be able to contribute to the sustainable improvement of their own communities..

For Eni *“behaving well”* means abiding by its Code of Conduct and:

- promoting economic and social growth of the communities by combining technical investments with socio-economic development and humanitarian initiatives as well as philanthropic activities
- apply equal opportunity principles in its working contexts
- ensure that most of the employees, managers and suppliers are from the host countries
- be respectful of and promote local traditions and cultural expressions
- provide internal training courses to assist in dealing with potential ethical dilemmas.

Nevertheless, the implementation of friendly and constructive relations with our communities (*“good-neighbour programs”*) should not make us forget that our performance in the field of Corporate Social Responsibility can - and must - always be improved.

We are fully aware that we have to do more.

But we cannot do all by ourselves, Companies cannot change the world on their own, Companies can and must get involved (along with all the stakeholders) in creating the conditions for promoting change in the behavior of national governments with respect to the rights of their citizens.

What Companies should do in the first place is to *“behave well”* themselves; operating within the context of their own internal and external responsibilities.

I would stress in this regard the predominant role of doing (*behave well*) than of codifying (I think that “best practice” will than complete the process).

The most important contribution an oil Company can make to the well-being of communities and countries where it operates is that of being successful in finding and extracting abundant and marketable natural resources.

But yet this is a starting point. Our role does not and cannot end here.

Today Companies are being asked to play a more active role in society and assume greater responsibilities.

This means abandoning old paradigms that represent Companies as being profit making machines (that must be judged and sanctioned for their actions and mistakes).

This means getting to a new approach that identifies Companies as active members of the same society, with rights and duties, whose interests should not be conflictual or antagonistic but integrated with - part of - the collective interest of the wider community.

In this vision, Companies voluntarily make ethical commitments to standards and principles on key social issues (stakeholder relations, human rights, environment, working conditions etc.) and their accountability on these issues is measured and regulated by a series of procedures involving internal and external stakeholders.

We also have to bear in mind that, even from a purely business point of view because of their long term engagements, oil companies prefer to operate in countries which enjoy socio-political and economic stability and which can guarantee fundamental legal rights. They have no interest to contribute in promoting conditions that favour social and political unrest, repression and violence.

However, when tackling these issues, we should keep in mind that there has to be a balance between:

- *on one hand*, "the legitimate need of society" (of which Companies also have a stake in) to regulate and guide economic activities - especially in such a vital and critical sector, like the energy one –
- *and "on the other"*, "the Company's requirements to operate" as effectively and efficiently as possible in trying to extract and market hydrocarbons.

End of the day, the question is "how" to maintain corporate competitiveness *and* - *at the same time* - preserve and enhance social and environmental sustainability ?

How can we let Competitiveness coexist with Sustainability ? Supposing that they have to be on a collision course, which I personally do not think.

I think that we are in the middle of an ongoing process of growing awareness and *learning* lessons within all the players in society.

A process that will probably lead us all to accept new paradigms and adopt new ways to measure "success" and "performance".

If it is true that the Companies' objective is that of running a successful business, then it is the measure of such "successful business" that should probably change.

This appears to be the real challenge for Companies

A challenge that implies first of all "Boards" more sensitised to the outside world. "Boards" capable to adopt new attitudes.

In fact, while it is true that Companies cannot change the world on their own, They can decide what attitude to adopt:

From continuing to maintain a rearguard, passive position, defending the status-quo against external pressure; to taking a more proactive and positive role, anticipating and responding in advance to the society's changing values and growing expectations.

But willing to be constructive, we have to be also very honest.

And I'd repeat that Companies cannot be left alone in this process, other stakeholders in the civil society, mainly Governments and International Institutions, should also play positively their important role supporting the enforcement of Internationally accepted Standards, Transparency and Stakeholder concepts.

LIST OF PARTICIPANTS