



EMBEDDING HUMAN RIGHTS INTO BUSINESS PRACTICE II

A joint publication of the United Nations Global Compact and the Office of the High Commissioner of Human Rights



United Nations Global Compact



United Nations Human Rights
Office of the High Commissioner for Human Rights

The United Nations Global Compact

The United Nations Global Compact brings business together with UN agencies, labour, civil society and governments to advance ten universal principles in the areas of human rights, labour, environment and anti-corruption. Through the power of collective action, the United Nations Global Compact seeks to mainstream these ten principles in business activities around the world and to catalyze actions in support of broader UN goals. With over 4,000 stakeholders from more than 100 countries, it is the world's largest voluntary corporate citizenship initiative.

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Introduction and acknowledgements

Ursula Wynhoven and Lene Wendland*

The United Nations Global Compact Office and the Office of the UN High Commissioner for Human Rights are delighted to introduce *Embedding Human Rights in Business Practice II*, the second volume in this jointly published case studies-based series. The first volume was published in December 2004.

About the *Embedding Human Rights in Business Practice* series

The target audience is businesses, Global Compact Local Networks, academics, and civil society organizations engaging with companies on human rights issues. The series explores the practical application of the Global Compact's human rights principles using case studies. It offers detailed examples of what businesses from all over the world are doing to implement human rights within their own operations and spheres of influence, and how they are doing it. The aims of the series are: (1) to help demonstrate the relevance of human rights for business everywhere; (2) to help establish the business case for human rights; and (3) to inspire businesses all over the world to raise the level of their human rights performance.

The first volume

The first volume of *Embedding Human Rights in Business Practice* (available at http://www.unglobalcompact.org/Issues/human_rights/index.html or in hardcopy from the UN Global Compact Office) contained both some analytical papers and case studies about Hewlett Packard, BP, BHP Billiton, Novo Nordisk and Total. The management practices explored covered topics such as human rights policies and processes, supply chain issues and stakeholder engagement. The main conclusion emerging from the first collection of cases was that proactive efforts to address human rights concerns better equip businesses to manage risks and help to secure and maintain their license to operate.

The second volume

The second volume reinforces this idea. It includes twenty case studies about the experiences of the following companies: ABB, Achilles, Anglogold Ashanti, AREVA, Asocolflores, Barloworld, BASF, Eskom, İpek Kağıt, Ketchum, MAS Holdings, Newmont, NIKE, Novartis, Sasol, Shell, Starbucks, Titan, Volkswagen and Westpac.

The questions and issues explored in the second volume include:

- What is the business case for adopting a proactive approach in dealing with human rights issues?
- How can companies formulate comprehensive human rights policies, and what are the benefits of doing so?
- What are the boundaries of a company's human rights responsibilities?
- What are the success factors for integration of human rights concerns into business practices?

* Ursula Wynhoven is the Head, Policy & Legal, of the UN Global Compact Office and is responsible for the Global Compact Office's Human Rights and Workplace work programmes. Lene Wendland is the Adviser on Business and Human Rights of the Office of the UN High Commissioner for Human Rights.

- What methodologies are available to decide if and how to operate in a country with weak governance and/or serious human rights concerns?
- What are the risks, challenges and opportunities in engaging in multi-stakeholder dialogue?
- What are examples of strategies for more effectively tackling human rights issues in the supply chain?

It also republishes a human rights framework that was developed together with the Business Leaders Initiative on Human Rights and the International Business Leaders Forum. While this is an evolving area, the framework endeavours to codify on one page the current understanding of good human rights management practices. The framework is available on the Global Compact website (http://www.unglobalcompact.org/Issues/human_rights/index.html) in all six UN languages. Each case study addresses one or more areas in this management framework: Getting started, strategy, policy, Processes and procedures, communications, training, Measuring impact and auditing, and reporting. An index indicates which areas are addressed in each case study.

The cases address a wide range of human rights (civil, political, economic, social and cultural rights), helping to demonstrate a variety of the ways in which human rights issues can be relevant for business. The case studies cover issues such as HIV/AIDS, non-discrimination and diversity, malnutrition, human trafficking, indigenous communities, working conditions, occupational health and safety, and poverty. We have included another index indicating the main human rights issues addressed in each case study.

Some recurring themes

Some key themes emerge from the case studies. For example, a number of the case studies (e.g., Achilles, NIKE, Starbucks, Volkswagen) address corporate initiatives in the supply chain, suggesting that the supply chain continues to be a challenging area for many companies, but one to which companies are paying a lot of attention. The cases show that there is a movement away from monitoring alone as a way to tackle human rights and labour challenges in the value chain, towards more sophisticated models that combine monitoring with an emphasis on building capacity, the business case and involving partners.

The importance of local knowledge in identifying potential human rights issues and effectively addressing them came up in a few of the case studies (e.g., Ketchum, Sasol, Shell, Westpac). In addition to involving external experts, some companies are prioritizing human rights and diversity sensitivity training for staff involved in community relations and/or have sent staff to spend more time in local communities to obtain a more complete picture and understanding of local needs, concerns and impacts. This approach also appears to have improved the quality of partnership relationships, by exposing personnel from different sectors to other work styles and perspectives. Benefits to staff morale from such experiences have also been noted.

Many of the case studies (e.g. ABB, AREVA, Barloworld, İpek Kağıt, Ketchum, NIKE, Sasol, Shell, Titan, Volkswagen, Westpac) describe how businesses are working in partnership with third parties—whether civil society organizations, governments, UN agencies, or other businesses—to enhance their capacity to address human rights issues. This suggests that companies are increasingly recognizing that practical solutions to human rights challenges often require a multi-sector approach and cannot be addressed by one company acting alone. One of the case studies (Asocolflores) describes a collective action approach involving a proactive industry association. An industry-wide approach is also discussed in another case study (Achilles). Through collective action, companies may be able to expand their ability to have a positive impact on human rights. They may also be able to raise the human rights performance and reputation of their national industry and thereby attract new business. It is important to recognize that collective approaches are often more time-intensive, as it takes time to reach consensus and build the necessary trust. Managing expectations on this front is key. However, in the scenarios described in the case studies, collective action approaches still proved worthwhile. In the case of collective approaches among companies, there can sometimes be a lowest common denominator factor. However, even in such instances, they can be a useful starting point for those companies that want to go further.

A few of the case studies explore the multi-layered relationship that sometimes exists between core business practices and strategic philanthropy in the form of social investment and community development (e.g., ABB, Barloworld, İpek Kağıt, MAS, Novartis, Titan, Westpac), particularly for businesses operating in developing countries or emerging markets. They suggest that philanthropic efforts that leverage the company's core business expertise and resources and that aim to build capacities and promote sustainable livelihoods may have a greater impact in advancing economic, social and cultural human rights than some more traditional forms of charity.

A number of the case studies (e.g., Barloworld, İpek Kağıt, MAS, Titan) stress the key role that a company leader has played in the company's commitment to human rights. The Global Compact is premised on the idea that commitment from a company's leadership is critical (necessary, but not sufficient) to making sustainable progress on business and human rights. Nevertheless, some of the case studies (e.g., BASF, İpek Kağıt) also illustrate that other managers and employees can be a crucial source of innovation on ways to respect, support and promote human rights. In such instances, obtaining the buy-in of more senior management may require heavy emphasis on the business case of the proposed activity. In the short term, however, the business case may not always be clear and appealing, and the moral case may be necessary.

Some of the case studies (e.g., İpek Kağıt, Ketchum, MAS, Titan,) illustrate the role that communications, social marketing and branding can play in making progress on business and human rights. Recognition of the importance of communication and enhancing transparency around company performance on human rights was another recurring theme. In this context, a number of the case studies stress the importance of third-party monitoring and evaluation and internal and external communication about the results (e.g., Barloworld, Newmont, NIKE, Volkswagen).

A couple of the case studies (ABB and Barloworld) discuss the challenges of operating in a context where human rights are systematically abused. They describe strategies that these companies employed to respect and support human rights in very difficult situations and the lessons they learned from the experience.

Interestingly, many of the companies used human rights and business tools to help them with their integration efforts. The Human Rights Compliance Assessment tool of the Danish Institute for Human Rights deserves special mention here. Use of business and human rights tools can help address human rights concerns and identify human rights opportunities in a comprehensive and systematic fashion. We have included an index so that the reader can see which tools and initiatives the businesses in the case study are using and engaged in. The quantity and quality of human rights tools available to help business with the process of addressing human rights has increased in recent years (see http://www.unglobalcompact.org/Issues/human_rights/index.html for a short description of a number of these tools, as well as where to obtain them). There is a great need to make such tools more accessible through, for example, making them available in a wider number of languages.

Demonstrating the relevance of human rights for business the world over, this case study collection includes studies from around the world. A number of them relate to company operations in Africa (Anglogold Ashanti, AREVA, Barloworld, Eskom, Sasol). This is not accidental. Since Africa was the region of focus for the Global Compact in 2006 and an international Global Compact learning forum took place in Accra, Ghana, in November 2006, a concerted effort was undertaken to offer case studies illustrating efforts to integrate human rights in business management on the African continent. Some of the case studies presented in this volume were presented and discussed at this event.

A word on case selection and methodology

The selection of case studies was based on examples of good practice that the Global Compact Office and Global Compact Local Networks identified. All are offered as aids to learning. Readers are encouraged to make their own assessment of whether the practices they describe are indeed good practice. Commentary on the case studies is welcome and will be included on the Global Compact website. Please send comments to globalcompact@un.org with the subject heading "Comments on Embedding Human Rights in Business Practice II."

The case studies were developed following the Global Compact's Case Study Research Guidelines, which are available on the Global Compact website at http://www.unglobalcompact.org/docs/how_to_participate_doc/guidance_docs/Guidelines_case_study.pdf). The case studies are written with the companies' permission, but usually by an independent author. All the case studies have been peer reviewed, tested with a multi-stakeholder audience at a Global Compact event and/or co-written with someone outside the company. Most of the case studies were written without financial support from the company concerned. In the rare instance where there is a departure from this model, this is indicated in a footnote to the case study.

Future volumes

We are already on the lookout for case studies for the next volume. Proposals of case studies for inclusion are welcome and should be sent to the Global Compact Office at globalcompact@un.org.

Acknowledgements

Many people have contributed a great deal of work to make this publication a reality. These include the case authors, company contacts and peer reviewers. The case authors and peer reviewers are acknowledged by name in each case study. However, the company contacts and other company personnel who contributed their time in interviews often go unrecognized. We would like to recognize them here. In addition, a special thank you goes to the following individuals for their editorial assistance and/or coordination efforts: Vidhya Balasubramanian, Theresa Barbadoro, Svetla Dalbokova, Marie Dalton, Christopher Delphin, Oliver Girardot, Alison Glusman, Eric Husketh, Kellie Johnston, Matt Kasdin, Sungkee Kim, Maria Kristjánsdóttir, Susan Lawless, Sunok Lee, David Mascari, Anna Murray, Jasmine Oberman, Sean O'Dowd, Jennifer Pence, Nick Perini, Lauren Ruben, Sarah Ritchey, Eric Rutkow, Mike Simpson, John Smelcer, Lise Smit, Carla Smith, Misi Tang and Hladini Wilson. The law firm of Latham & Watkins also deserves special mention as many of the above-mentioned persons provided their work through the firm's pro bono programme.

Opening perspective on the case for human rights in business

Kathryn Dovey and John Morrison*

This opening perspective briefly looks at the “why,” “what” and “how” of human rights in business and raises a few key questions for the reader to bear in mind when perusing the case studies in this volume.

The “why”

We are entering an interesting and important time in the development of human rights in business. Real progress has been made on the “why” question: Very few businesses would state: “human rights are not our concern,” and a growing number are actively engaging the issue. Over 100 companies now have human rights-based policies,¹ and this number rises significantly if labour rights are included.²

It is a salient point that the UN Global Compact now has around 4,000 business members from all corners of the world, although another 70,000 trans-national enterprises and countless millions of small and medium-sized enterprises are not yet party to the Global Compact principles. The “why” of human rights in business needs to be continually debated, not just in OECD countries, but in the vibrant emerging economies and also in the more marginalised, poorer regions of the world. There are still many businesses, both within and outside the UN Global Compact, who have yet to respond to the “business case” or to the “moral case” for human rights, and still others who are geographically selective in the application of these rights.

The Global Compact principles would suggest that while businesses cannot be moral authorities, they are moral agents. The Universal Declaration of Human Rights in 1948 called on “every organ of society” to play their role. Eleanor Roosevelt went still further when she addressed the United Nations General Assembly in Paris on 10 December 1948, calling on all of us to remember all the “small places”:

Where, after all, do universal human rights begin? In small places, close to home—so close and so small that they cannot be seen on any maps of the world. Yet they are the world of the individual person; the neighbourhood he [she] lives in; the school or college he [she] attends; the factory, farm, or office where he [she] works. Such are the places where every man, woman, and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere. Without concerted citizen action to uphold them close to home, we shall look in vain for progress in the larger world.³

It is fitting that as we approach the 60th anniversary of the Universal Declaration of Human Rights, we take stock of the progress business has made in helping to realize the full spectrum of human rights—political, civil, economic, social and cultural rights—as embodied in the Universal Declaration and the covenants and conventions that followed (or preceded, as in the case of some of the ILO conventions).

The “business case for human rights” is articulated in various ways in the case studies in this publication. These would include:

- Having the social licence to operate and legitimacy in the eyes of stakeholders;
- Managing legal and operational risk and reputation;
- Modelling due diligence and quality control;
- Motivation and performance of staff, worker and management;
- Meeting shareholder and investor expectations;
- Codification of existing practice and impact;
- Strategic positioning in key markets or emerging markets more generally.

* Kathryn Dovey and John Morrison manage the Business Leaders Initiative on Human Rights (www.blihr.org). Kathryn Dovey is also the Director of “Enterprises pour les Droits d’Homme” based in Paris, and John Morrison is Director of Business and Human Rights Associates Ltd (www.humanrightsassociates.com).

Arguably, the moral dimension cuts across all these issues and speaks to the personal motivation and performance of key individuals within the corporate structure. In one of the studies included in this volume, the author looks out of his window and asks himself the difficult questions that occupy the minds of business leaders when human rights enters into their vocabulary—through membership in the Global Compact or through some other avenue.

A key “why” question when looking at the case studies is the interaction of personal motivations with organizational concerns—i.e., are the studies reflections of personal commitments to human rights interacting with business imperatives, or is there a deeper integration between the two at a more systemic level?

One change we are seeing is the expansion of the business case from being predominately the prevention of human rights abuse (and the associated business risks) to the creation of greater opportunity. The balancing of risk and opportunity is much more akin to the business mindset, and conversations about how business can be part of the solution and not just avoid being part of the problem can be fruitful. If we take the full range of civil, political, economic (including labour rights), social and cultural rights embodied in the Universal Declaration and two international covenants, we see that governments themselves have developed the concept of “progressive realization” in providing for the public good and the rights to health (now also to include water), food, housing, work and education.

Business is an essential ingredient in the provision of such public rights in most parts of the world. It also plays a major role in developing infrastructure and services where access to these rights is still not a reality. The Millennium Development Goals remind us constantly of some of the global priorities in this regard. Millennium Development Goal 8 remains an under-utilised opportunity for business to step up to the plate with partnerships that deliver real impact for the global poor and some of their fundamental rights.⁴

None of the above should suggest that business has the primary responsibility for fulfilling human rights; this clearly must remain with governments. The work of the UN Special Representative on Business and Human Rights, Professor John Ruggie of Harvard University, has so far shown that there are few binding legal responsibilities for business in relation to international human rights law, with the exception of some direct obligations for individuals (including business representatives) under international criminal law or humanitarian law.⁵ As long as human rights remain the legal responsibility of governments, it is up to them to hold businesses to account through national legislation. The legal dilemma emerges when governments are unwilling or unable to do so. The moral dilemma is much broader than this.

The fundamental driver for business in this arena is not law alone, rather it is the symbiosis between mandatory and voluntary action: the carrot and the stick. The “why” for business is as much about the “social licence to operate” and maintaining a sustainable and longer-term business model that factors in human rights-related risks as it is about the benefits of empowering communities to articulate their rights. Increasingly, institutional investors are calling upon business to behave morally. Companies such as Goldman Sachs are looking to better understand the correlation between the financial performance of investment and a range of environmental, social and good governance indicators, including human rights.⁶

The carrot of investment or the treat of disinvestment is a fairly blunt tool, but it becomes sharper when criteria are developed to guide responsible behaviour—such as those developed in the extractive, apparel and footwear, supermarket, ICT and finance sectors. The Business Leaders Initiative on Human Rights has historically made the distinction between the “essential” (what is required for all business), the “expected” (often defined as good practice at a sectoral level) and the “desirable” (what a particular company might define as a leadership position).⁷ Another key question pertaining to this volume is which of the case studies best illustrate the business motivations to engage with human rights that are relevant to particular business sectors or geographic localities around the world?

The “what”

Some progress has also been made on the “what” of business and human rights over recent years. The first two principles of the UN Global Compact are a very good starting point in that they remind us about the full range of civil, political, economic, social and cultural rights embodied within the United Nations human rights system, as well as the most basic of duties of companies: not to abuse these rights themselves or to be complicit in their abuse by others.

Good work has been done to chart the legal bedrock of the concept of business complicity across many international jurisdictions. See, for example, the efforts undertaken by FAFO⁸ and by the International Commission of Jurists.⁹ Again, this is the bedrock of what companies must not do, but opens a conversation about what business should or could do. Here the UN Global Compact offers us the concept of “sphere of influence” as a way for business to begin to define what relationships it might have with different stakeholder groups in relation to human rights as well as in relation to all the other principles of the Compact.

Some good work is also under development to help businesses with the “what” question. Some of the following human rights tools are referred to the case studies:

Name of tool	Description
A Guide to Integrating Human Rights in Business Management (Business Leaders Initiative on Human Rights/Office of the UN High Commissioner for Human Rights/United Nations Global Compact) www.blihr.org/www.ohchr.org/www.unglobalcompact.org	A generic guide for companies to start integrating human rights into the various aspects of a business management system: strategy, policy, processes/procedures, communication, training, monitoring and reporting.
Conflict-Sensitive Business Practice (International Alert) http://www.international-alert.org/our_work/themes/extractive_industries.php	A tool to ensure that the business practices of companies operating in conflict zones do not contribute to conflict or cause human rights abuses and that they contribute to social and economic development.
Guide to Human Rights Impact Assessment (International Business Leaders Forum/International Finance Corporation/United Nations Global Compact) http://www.iblfi.org/resources/general.jsp?id=123946	A tool to provide companies with a process for assessing potential human rights impacts and making appropriate management decisions.
Human Rights Compliance Assessment (Danish Institute for Human Rights) http://www.humanrightsbusiness.org	A diagnostic self-assessment tool to help companies detect risks of human rights violations caused by the effects of company operations on employees, local residents and other stakeholders.
Community Human Rights Impact Assessment (Rights and Democracy) http://www.dd-rd.ca	To develop a process through which affected communities can understand the impact of foreign investment in human rights terms.
Human Rights Matrix (revised) (Business Leaders Initiative on Human Rights) www.blihr.org	A tool for companies to map policies and practice against the content of the Universal Declaration of Human Rights and to prioritize against what is essential, expected and desirable.

Another new tool is the OHCHR/UN Global Compact web-based learning tool on human rights and business (<http://www.unssc.org/web/hrb/Default2.asp>), an entry level interactive course for managers and CSR professionals in companies participating in the UN Global Compact to help them understand what human rights are and how they are relevant to their business operations. The tool focuses on the two Global Compact human rights principles and related concepts of spheres of influence and complicity.

All of the above tools help with the “what” question in relation to business and human rights – by better explaining how human rights relate to specific business operations. There are also a number of sector-specific initiatives, principles and codes that can help businesses share learning and experience on specific issues of priority to that business sector within a framework of responsibility and due diligence.

Good examples (some of which are again referenced in this volume) are:

Extractive sector

- Voluntary Principles on Security and Human Rights
- Extractive Industries Transparency Initiative
- Kimberley Process
- Communities and Small-Scale Mining

Retail/apparel sector

- Ethical Trading Initiative
- Fair Labor Association
- Clean Clothes Campaign
- SA8000

Finance sector

- Equator Principles
- United Nations Environment Programme Finance Initiative human rights toolkit

Electronics sector

- Electronic Industry Code of Conduct
- Global e-Sustainability Initiative

Some other business sectors are currently negotiating human rights-related codes and principles for guiding business behaviour among peer companies. It is acknowledged that many of these initiatives are intended to tackle the “how” issues as well as the “what,” but this remains an even more challenging task as shall be discussed below.

A key “what” question when reading the case studies is to reflect on the way a business has defined the breadth and depth of the human rights it is considering in relation to specific business issues and how it has involved stakeholders and the experience of other businesses in this process.

The “how”

The biggest challenge in business and human rights remains sharing real experiences about the “how.” Despite the poignant message of Eleanor Roosevelt in 1948, human rights have been largely interpreted in their strict legal sense or in a wider moral fashion by civil society. What has been missing is the central path of pragmatic application within the day-to-day operations of complex organizations such as businesses. The case studies in this volume are rare examples of attempts to address the “how”: In this case, how the aspirations of the UN Global Compact principles (in particular Principles 1 and 2) can be made real in a business context. The diversity of case studies show both how much progress has been made, as well as how much remains to be done.

Throughout this publication there are tools and stories relevant to particular functions within a business. It is useful to consider where within the framework of a business management system the experiences are located.

Precious little experience on the “how” is being openly exchanged by businesses. The case studies in this volume, and in its predecessor volume, are thus an important contribution. Most of the other experience is locked inside individual companies or shared only within sector-specific initiatives. A key question on the “how” is the extent to which specific experiences are relevant to businesses within the same sector and/or businesses in other sectors or different geographic locations?

It is important to acknowledge the limitations of businesses in sharing such knowledge and experience. There are still not enough case studies of real quality—in terms of both their human rights content and their global business relevance. The rates of improvement and disclosure remain painfully slow. There is still room for greater frankness and honest storytelling. Mistakes are an inevitable part of learning and need to be admitted so that progress can truly be made.

To achieve the vision of the Global Compact, we need an exponential growth in the scope and quality of case studies from across all business sectors and all geographic locations. We hope that the accounts in this volume inspire you to share your own experiences. Each additional story brings new hope and new determination to those who are committed to the real-life application of the principles of human rights throughout the world.

Endnotes

- 1 According to those listed on the Business and Human Rights Resource Centre (www.business-humanrights.org).
- 2 Michael Wright & Amy Lehr (2006) "Business Recognition of Human Rights: Global Patterns, Regional & Sectoral Variations," Research Fellows, Mossavar-Rahmani Center for Business & Government, Kennedy School of Government, Harvard University, under direction of UN Special Representative John Ruggie, 12 Dec 2006.
- 3 Eleanor Roosevelt (1948) Speech to the General Assembly on 10 December 1948 in Paris, www.udhr.org/history.
- 4 Goal 8: Develop a global partnership for development, www.un.org/millenniumgoals.
- 5 UN Special Representative John Ruggie's report on his initial two-year mandate (2005–07) to the UN Human Rights.
- 6 Goldman Sachs (2007) GS SUSTAIN, 22 June 2007, www.unglobalcompact.org.
- 7 www.blihr.org.
- 8 <http://www.faf.no/liabilities/index.htm>.
- 9 <http://www.business-humanrights.org/Updates/Archive/ICJPaneloncomplicity>.

The Ten Principles of the Global Compact

HUMAN RIGHTS

- Principle 1 Businesses should support and respect the protection of internationally proclaimed human rights; and
Principle 2 make sure that they are not complicit in human rights abuses.

LABOUR

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

ENVIRONMENT

- Principle 7 Businesses are asked to support a precautionary approach to environmental challenges;
Principle 8 undertake initiatives to promote greater environmental responsibility; and
Principle 9 encourage the development and diffusion of environmentally friendly technologies.

ANTI-CORRUPTION

- Principle 10 Businesses should work against corruption in all its forms, including extortion and bribery.

I GETTING STARTED

Develop your company's business case for human rights

Make use of existing human rights resources and guidance materials, available on platforms like www.business-humanrights.org

Understand the implications of the first two principles of the UN Global Compact: to support and respect human rights within your business and your sphere of influence, and to make sure that you are not complicit in human rights abuses

Develop and encourage a transparent and rights-aware approach to your business including by:

- Identifying and consulting with key stakeholders – including critics – to understand their concerns and expectations
- Identifying the key rights at issue, and the potential responsibilities of your company and the appropriate responses

II STRATEGY

Find out what you are already doing on human rights e.g. under health and safety, union relations and human resources

Identify risks and opportunities and priorities for action, including by:

- Considering – in collaboration with operational colleagues – the nature and scope of the company's human rights impacts and responsibilities in relation to core business and relations with business partners (supply and distribution chains), local communities and governments
- Comparing current performance against industry standards and good practice
- Conducting a human rights risk or impact assessment, eg. using the IBLF/IFC/UNGC Human Rights Impact Assessment Guide, the BLHR Matrix, or the Danish Institute's Human Rights Compliance Assessment Tool
- Identifying any past human rights challenges for the company and feeding lessons into future decision-making
- Prioritising the key human rights objectives for the company

Assign senior management/board level responsibility for the implementation of the company's human rights strategy

VIII REPORTING

Report annually to stakeholders on progress against human rights policy pledges

Decide which human rights impacts are priorities for you to report on

Submit a link/description to the Global Compact website (if Global Compact participants)

In particular, explain to both internal and external stakeholders how the company set its human rights priorities and met or attempted to meet its key human rights policy objectives

VII MEASURING IMPACT & AUDITING

Set relevant performance indicators for measuring human rights impact across the different functions of your business

Apply continuous monitoring of practice and benchmark against other relevant companies to make sure that human rights policies are being applied

Undertake internal human rights-based audits and consider using third parties to make sure human rights policies are being applied

Use the monitoring and evaluation process as a tool for raising internal awareness and building the capacity of supplier management

Use audit findings to inform the strategic development of your business with respect to human rights

A Human Rights Framework

III POLICY

Use the term “human rights” within policy statements and refer to international agreements, especially the Universal Declaration of Human Rights and ILO core conventions

Include human rights in your existing policies

Develop specific human rights policies where appropriate

Develop local policies that align with global policies to meet local situations

Publish policies internally and externally and apply policies globally and across all operations of the company

Review your policy periodically on the basis of implementation experience and be ready to revise if necessary

IV PROCESSES & PROCEDURES

Establish procedures for managing any identified human rights-related risks and opportunities

Adequately address human rights impacts and risks within business processes, including by:

- Opting to conduct a dedicated human rights impact assessment or ensuring that environmental and social impact assessments encompass human rights
- Ensuring that other company policies, processes and procedures do not conflict with those on human rights
- Including human rights responsibilities in job descriptions and performance appraisals of key personnel
- Seeing that human rights issues are appropriately addressed in contracts with business partners

Put in place management systems for human rights policy implementation, monitoring and reporting across the company

Learn from sector-wide business initiatives on human rights

Consider a collective action approach with industry peers where appropriate

Provide mechanisms to protect employees who report potential human rights concerns within the company or with business partners

V COMMUNICATIONS

Share understanding of why human rights are important to business communications

Integrate human rights into your internal and external communications where appropriate

Communicate procedures to employees and business partners

Make procedures available in local languages and accessible to those unable to read

Openly acknowledge events where the company ran into difficulty or could have dealt with a problem more effectively

Use open and ongoing communication as a vehicle to gain active support from stakeholders in resolving problems

VI TRAINING

Identify target groups in your business to receive human rights training

Review the different types of training materials available

Integrate real life dilemma solving into training efforts

BUSINESS LEADERS INITIATIVE ON HUMAN RIGHTS



United Nations Human Rights
Office of the High Commissioner for Human Rights



Westpac Australia and the Cape York Indigenous Partnership

Dr. Leeora Black*

Human rights issues addressed

- Human rights and the environment
- Indigenous people's rights
- Social investment and community development

Human rights management practices discussed

- Getting started
- Strategy
- Policy
- Communications

Human rights standards, tools and initiatives mentioned (beyond the UN Global Compact)

- United Nations Declaration of Human Rights
- Global Reporting Initiative

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Abstract

This case study analyses the engagement of Westpac Banking Corporation with the principles of the Global Compact and its overall “journey” towards better corporate citizenship.

Westpac joined the Global Compact in January 2002 following a tumultuous period for both Westpac and the Australian banking sector in general. Certain events during this difficult period served as catalysts for change in Westpac's corporate citizenship, and this study examines these catalysts both before and after Westpac joined the Global Compact. The study then addresses how Westpac has responded to the first of the Global Compact's principles, that businesses should support and respect the protection of internationally recognized human rights. The case study explores the question, “How does Westpac learn about human rights?” through examining a unique partnership with indigenous communities in Cape York, the northeast tip of Australia. The partnership is designed to help tackle poverty and address the legacy of inequality within a particularly disadvantaged community. It leverages Westpac's comparative advantage – the provision of expert business and financial advice – to make an important contribution to the advancement of the economic, social and cultural rights of an indigenous community. The case study aims, through this analysis, to provide a useful example of how Global Compact participants and other corporate citizens can interpret and apply the Global Compact's core values in the area of human rights.

Company profile

Westpac is a full-service bank headquartered in Sydney. It is Australia's tenth largest company by revenue¹ and one of its four largest banks, with 27,000 employees, 8.2 million customers, 226,000 shareholders and global assets of AU\$245 billion in 18 countries. Its core business lines are business and consumer banking, corporate and institutional banking, and wealth management (mutual funds).

Key events

By 1990, Westpac entered a period of crisis. Losses in the Bank's finance company subsidiary, AGC, ballooned as Australia began to enter a recession. In 1991, Westpac's image was severely tarnished by the “Westpac letters affair” (Carew, 1997). The letters were legal documents relating to alleged mismanagement of a client's affairs in one of its subsidiaries that had been leaked to the media by a disgruntled former employee. Westpac attempted to use legal process to keep them from being published. This served to focus public attention on the Bank's lack of transparency. Eventually the letters were tabled in Parliament and the affair became one of the issues considered by a Parliamentary banking industry inquiry into the consequences of the first decade of bank deregulation (the “Martin Inquiry”).

* Dr. Leeora Black is Managing Director of the Australian Centre for Corporate Social Responsibility. Peer review of this case study was provided by James E. Post, Professor of Management Boston University. Funding was accepted from Westpac for its preparation. The complete version of this case, including references, is available on the UN Global Compact website at www.unglobalcompact.org.

In 1992, Westpac posted its worst financial result ever. Financial recovery meant “shrinking for survival” (Carew, 1997: 416). Employees were reduced over the next decade from 46,600 to 25,000. Australia’s four biggest banks, including Westpac, collectively closed around 1,300 branches during the 1990s (Maine, 2000). The rural sector, which had formed the backbone of Westpac’s early success, was hardest hit, as each rural branch closure reflected and accelerated the economic and social decline in small towns (Maine, 2000). Community and employee criticism mounted, and by 1998, Westpac became the target of highly publicised activist protests.

That year, Westpac began its corporate citizenship journey by acknowledging in its annual report the depth of public criticism and pledging to become more responsive to customer and community concerns (Westpac, 1998). In 1999, David Morgan became CEO, and in 2000, Leon Davis became Chairman. The new leaders were committed to continuing the corporate citizenship journey.

By 2002, when Westpac joined the Global Compact, it had issued its first social impact report, was rated the world leader of the banking sector on the Dow Jones Sustainability Index, and supported over 300 charities through its employee volunteering and matching gift programme (Westpac, 2002b).

Catalysts for Westpac’s journey, 1990–2002

Financial and reputational crisis, 1990–1992

Westpac has experienced significant change since Graham Paterson first joined the Bank in 1970 as Head of Regional Community Partnerships. The Bank at that time employed few women, part-time staff, or people from non-English-speaking backgrounds – almost the complete opposite of the employee demographic profile today (Westpac, 2004). “We had a fairly narrow view of what we can contribute ... people mostly saw the social contribution of the bank

through its staff, as members of the local footy team or treasurers in the local community or various community groups,” said Paterson.

Prior to its financial crisis in 1992, Westpac’s management was “very old style.” According to General Manager Stakeholder Communications, Noel Purcell, the relationship between the Board and the executive management team was also strained: “It was confronting in those days for anybody in the Executive to have to go to the Board. It was a very traditional, hierarchical environment where speaking up on issues was not easy.”

In this environment, on 20 May 1992, the Bank announced an AU\$1.6 billion loss for the half year. At the time, this was the biggest corporate loss in Australian history. Together with the reputational damage caused by the “Westpac letters affair,” the loss sparked a crisis within the Bank’s leadership. Purcell described the Bank’s response as “a fight for survival.” The weakened Bank became a takeover target, and although it survived as an independent business, the instability led to a shakeout of Board members and senior management that put in place the foundations for the subsequent recovery and corporate citizenship journey.

Shrinking for survival² and public outrage, 1993–1998

By 1993, Westpac had a new Chairman, John Uhrig, and a new Managing Director, Bob Joss, a team that Purcell said “provided a very steady hand ... and a high sense of the right and the wrong.” Uhrig inculcated more trust between the Executive and the Board. Joss “was a good manager and knew what had to be done ... he re-built the balance sheet of the group. He sold off troubled parts of the group and exited much of the offshore business activities and he got the company focused financially. By 1998, our financial health was pretty much restored,” said Purcell.

Regaining financial health meant sharp reductions in employee numbers and closing branches (measures taken by

all Australia’s large banks over this period). Paterson says implementing closures and retrenchments was extremely hard to do. “In that period we almost weren’t game to pick up another newspaper to read another bank bashing story. The social situation meant it was almost embarrassing to work with a bank. That wasn’t very palatable for the organization, and it was very difficult for our staff, and I think in line with that, it also had other impacts in terms of our ability to attract and maintain staff, and it had a rub-off on the customers, because the customers were leaving the banks and trying to find other solutions,” he said.

CEO David Morgan said that by 1998, “we found ourselves in a situation of having made a financial recovery in a short-term sense but really having none of our stakeholders, apart from our shareholders, really coming on that journey. [We realized] that what we had produced was too narrow and too short-term to be sustainable. And that unless we really were delivering for all of our stakeholders, then our licence to operate was under threat.”

The dissonance between Westpac’s historic role as a pillar of Australian society and its contraction of bank services and employee numbers while simultaneously making massive profits meant that by 1998, “there was public outrage, and banks were pretty much page one news constantly. The community was up to their eyeballs in what they saw as unethical behaviour of banks.”³

In addition to “public outrage” and constant media criticism, Westpac became the target in 1998 of environmental protests by The Wilderness Society, an environmental non-government organization (Anonymous, 1998). Westpac was targeted because of its role in providing custodian and other services to the Jabiluka mine in the Northern Territory of Australia. Jabiluka was a lightning rod for activist protests because it mined uranium,⁴ and is located on Aboriginal lands within Kakadu National Park, a world heritage-listed area. Native title claims, social impact and

heritage issues, environmental values and strong opposition to uranium mining formed a powerful impetus for activist action. Westpac's highly visible branch network became a target for activist protests.

Activists demonstrated outside Westpac's branches, and in some cases, inside the branches as well. The protestors "organized days of action and would target multiple branches at a time and they would hand out information or would disrupt branch proceedings, or would in some instances climb on the counter" (quoted in Black, 2004). Streets in the Sydney central business district were "choked" with protestors. Police presence was heavy, and traffic was at a standstill. Newspaper reports at the time said demonstrators chained themselves inside bank branches, unfurled banners from the roofs of Westpac offices, wore head-to-toe protective suits and handed out edible "yellow cake" (i.e., that looked like cakes of uranium) (Clennell & Howell, 1998; Failes, 1998).

In 1998, the Bank took three major steps to restore its tarnished credibility with employees and the public. First, it acknowledged the depth of public criticism in its annual report and pledged to be socially responsible. It also introduced a landmark new product – the basic banking account, a no-fee account for welfare recipients and other disadvantaged groups. The product had to be carefully developed, as it required cross-subsidization from other bank revenues. "We chose to provide limited free banking even though it involved, in effect, a welfare role. The basic banking account was a key event because it helped us to rebuild community trust," said Purcell. The new basic account product was a signal that Westpac was serious about responding to community concerns, but it was just the first step. And third, the Bank announced a moratorium on further branch closures in regional and rural Australia.

People, values and experience

The leaders of Westpac's first steps on its corporate citizenship journey had experiences and values in common. The leaders were Chairman Leon Davis, CEO David Morgan, Group Executive for People and Performance Ann Sherry, and Head of Stakeholder Communications Noel Purcell. From a structural perspective, these people covered key positions in the Bank, with Davis and Morgan providing top-line leadership and Sherry and Purcell between them managing the Bank's core internal and external stakeholder groups. These people were in the right places and had the power to implement change. However, position and power are not of themselves sufficient catalysts for a corporate citizenship journey. In the case of Westpac, the experiences and values of this core group made them more able to attend to new signals in Westpac's environment than, for example, the management team of a decade earlier.

The three key executives had all joined Westpac after high-level careers in the public sector working for government departments and agencies. Davis, as a former managing director for the global mining giant Rio Tinto, brought deep experience in indigenous relations and well understood the need to "see that right is done." He was a receptive and powerful ally for senior managers with a big change agenda.

Purcell joined the Bank in 1985 after a senior role in the Department of Prime Minister and Cabinet. Morgan followed in 1990 from the Federal Treasury after earlier working for the International Monetary Fund. Sherry arrived in 1994 after leading the Government's Office of the Status of Women in the Department of Prime Minister and Cabinet.

Morgan considers it no coincidence that the three executives driving Westpac's corporate citizenship journey shared a public service background. "People are drawn to the public service to change society in a beneficial way.

That's what you're there for. We had been in our own ways a part of a revolution in Australia and this big shift in power away from the government sector to the private sector. A lot of power shifted to the private sector. We then saw an opportunity to have that same big beneficial influence on society through some of the major private corporations in this country." Morgan was thus sensitive to the responsibility that attends power.

Sherry believes the skill set delivered by public service experience was critical in learning to appreciate the need to respond comprehensively to public and employee concerns. "The things I learned when I worked in the government are that we can't afford to ignore small groups of people just because they're small groups. They can have as much and often a disproportionate political clout. Secondly, most people in the community do have a sort of basic sense of decency and fairness. The third thing I learned about stakeholder management is that you ignore developing issues at your peril. So access to services in remote communities was a developing issue that was happening in the broader community. You've got to have the radar on all the time."

These values and skills underpinned the next steps of the corporate citizenship journey begun by Westpac in 1998. Purcell had become convinced that the solution to the Bank's reputational problems lay not in explaining or communicating, but in winning back the trust of employees through behaving in a manner consistent with the Bank's own stated aspirations. He believed employees had mentally "jumped the counter" to identify more strongly with customers than with their employer (Black, 2004). "We had to break through," he said. "We had to win back the trust of our own people. The staff knew the story ... the community was reading us correctly. The biggest gap wasn't between the perceptions of what people thought we were doing and what we were actu-

ally doing, but between what we aspired to do and what we were actually doing. Things like that we care deeply about rural communities ... our actions in closing branches were not consistent with caring deeply about rural Australia.”

Morgan, an architect of the banking industry deregulation during his time in Treasury, now faced the consequences of the Bank’s response to deregulation. “That was particularly poignant for me. I’d played a major role in deregulating the financial services industry in Australia ... and then, years later, found myself as Chief Executive with our staff pretty low in commitment, having suffered a lot through the downsizing of the 90s, customers really feeling very disenchanting with the major banks, and the community in uproar through branch closures, staff layoffs, and fee increases. I saw our social licence to operate in a deregulated system at risk,” he said. “Our people wanted the company to stand for something more than simply making money for shareholders. They wanted to be part of a company that was run according to a decent set of values – responsible, ethical, trustworthy.”

Sherry took the view that Westpac had to “pull out of the pack”⁵ and “do something that actually did differentiate us from what was happening in the industry.” Davis shared Morgan’s belief that deregulation brings “a responsibility to ensure that power is used properly.” “It (corporate citizenship) was something that people were thinking about ... people were waiting for leadership or a clue to say, hey, this what we are all about, and it was the easiest change I ever had to do,” he said.

Signalling change

In 2001, Westpac established a social responsibility committee of its Board. Davis, the then Board Chairman, initiated the committee to signal to managers and employees the status of social responsibility as an issue for the Bank. “To have a committee of the Board concerned with that right up there with the audit committee, with the credit and market

risk committees, with the remuneration committee, with the nominations committee, states that the Board thinks social responsibility has equal status as all the other traditional important issues,” he said. The new committee effectively institutionalised concern for social responsibility in the Bank. Employees were “liberated” when they realized that social responsibility “was in line with how they should behave as a ... hard-nosed business person.”⁶

Signing the Global Compact, January 2002

In 2001, Westpac issued a social charter (statement of principles) called “We believe in ...,” which set out a series of commitments against which its subsequent social reports reported progress. It stated the Bank’s commitment to the United Nations Universal Declaration of Human Rights and recognized indigenous rights. It stated respect for the rights of employees and described how the company would care for the environment. In short, the three focal areas of the UN Global Compact (at that time) – human rights, labour relations and the environment – were addressed in this document, even though the Global Compact was not specifically mentioned.

In the months before issuing the social charter, Purcell had been looking at what other leading companies were doing. About the Global Compact, he asked himself, “Why shouldn’t we? The Global Compact principles were easy for us to adopt. The vast majority of it was already in our policies but hadn’t been put together in that form.” In January 2002, Davis wrote to the UN Secretary General, Kofi Annan, to formally commit Westpac to the Global Compact.

Although the decision to join the Global Compact was easy, it represented a new step in Westpac’s corporate citizenship journey. Purcell said, “It’s deliberately raising the bar. We are very conscious that we do not sign up for stuff that we are not prepared to honour and deliver. The Global Compact represents a values-driven approach rather

than a compliance-driven approach, so it helps us make decisions when there’s no legal yes or no. It’s made it easier for us, for example, to commit to increasing indigenous employment. Staff also needs a basis for questioning behaviour. The social charter was a healthy basis to start from, but the more we commit to principle-based things the more it will embed and sustain them. The Global Compact reaffirms where we are and what we’re doing.”

Morgan says the Global Compact acts as an endorsement for the company’s values and gives “authority and legitimacy to those companies who are trying to go down that road in terms of human rights and labour relationships and the environment and anticorruption and fundamental, deep concern with doing the right thing.” Sherry sees the Global Compact as an “opportunity to test ourselves against what happens in other places,” while Davis values the opportunities to learn from and share with other participants.

Cape York Indigenous Partnership, 2002–present

While Purcell was making significant progress in 2001 on defining and refining Westpac’s corporate citizenship principles and commitments, Sherry, who was by then CEO of Westpac’s subsidiary, The Bank of Melbourne, was starting to consider indigenous issues in greater depth. Westpac had long-standing business in the Northern Territory and had developed some expertise in providing financial services to remote, indigenous communities. In response to public criticism of its withdrawal of rural banking services, it established a Regional Banking Group in 1999 to more effectively manage regional issues and services (Westpac, 2002a). Westpac had also previously sponsored or participated in several programmes to support indigenous communities.⁸ Sherry’s next move came against a background of growing organizational responsiveness to regional and indigenous issues.

Sherry joined a group of business people who visited far North Queen-

sland in 2001 at the invitation of local Aboriginal communities and Aboriginal leader Noel Pearson. Cape York is among the most remote and poorest regions of Australia (see Annex 1). Sherry's attendance at the Cape York meeting was to be a vital step in Westpac's unfolding corporate citizenship journey. She listened closely at that meeting to Noel Pearson, an influential leader who was born and raised in Cape York and argues against passive welfare dependency. Pearson's book, "Our right to take responsibility" (2000), laid out a vision for Aboriginal recovery that inspires the partnership between Cape York communities and several businesses,⁹ including Westpac, run by the organization Indigenous Enterprise Partnerships (IEP).¹⁰ "At that meeting it was obvious that there needed to be a different way," said Sherry. "You can't go into those communities and walk away thinking that it's okay for a very affluent society like ours to have people who live on rubbish tips. It looked worse than lots of the third world images that we get ... Those things happen in our own backyard, but it's very invisible. So the visibility of that prompted action, and at that forum, a group of us said: Why don't we come together and see if there is a different way?"

Sherry established Westpac's Indigenous Working Group to give focus and profile to the range of indigenous relations initiatives and sought internal allies for an ambitious partnership project with IEP. She found ready allies in Davis, Morgan and the then head of the retail banking division, David Clark.

Describing how she introduced the idea of the Cape York partnership at Westpac, Sherry said, "I was probably senior enough just to ram it through myself, but it needed broader support than just me, because otherwise it's not sustainable inside the organization. So I got support from David Clark, who at that time was running the retail bank. Between us we had

sufficient influence and authority to make sure it worked across the organization. Leon Davis, the Chairman, got engaged. He certainly understood the community engagement piece of it, and he had respect for Noel Pearson. The other way I got people on board was to bring Noel Pearson down and have him talk to people. You can't go away from one of those sessions and not think that we have an obligation to do something different. He talked about the role, the dysfunctional elements, how dislocated this community was, and he radiates the capacity for doing something different."

In 2001, Westpac agreed to a partnership with Cape York Aboriginal communities that has been its most significant partnership to date to address human rights issues.

The mind-set for participation in the Cape York Indigenous Partnership

The Cape York Indigenous Partnership was authorised by the Bank's leadership and senior management because they viewed it as an opportunity to simultaneously address severe issues of inequality in Australia and use the Bank's unique skill set to maximize its impact on society. Morgan explained, "We could have a far greater leverage by giving a million dollars worth of our executives' time to teach a set of financial skills to certain individual households or indigenous small business enterprises. That would have a magnified impact vis-à-vis simply handing over a cheque for a million dollars."

Davis liked it because it showed employees that Westpac was thinking about its responsibilities as a corporate citizen. "It's important for our development of our culture and it is making people proud to be working in our organization and that has a spill-over with our interface with customers. I think the employees are going to be better representatives to our customers than they would have been before this experience," he said.

The Cape York partnership is based on a different way of thinking about the Bank's relationship with society.

Michael Winer, CEO of Indigenous Enterprise Partnerships, says the Cape York project requires corporations to "dismount from their white horses" and change their thinking from a philanthropic mindset to a capacity-building mindset that puts local communities in charge.

"Cape York was covered in white- elephant businesses that were hardly a very good idea or the aspiration of the Aboriginal community. It was usually ... someone that was visiting that said, 'Hey, you need a prawn farm' or 'We should go and save the kids from petrol sniffing'. How this programme is fundamentally different is people have said, 'No, we're going to put the Aboriginal people in control and we're going to support their initiatives and we're going to help build their capacity to deliver programmes. We're not going to go and deliver a programme for them'. And that's a big shift in thinking. It seems really obvious and simple now, but at the time very few people were doing that." Sherry wanted the partnership to be a meaningful way to address indigenous inequality. "We tinkered with it at the margin...but we've done one-off things. We haven't fundamentally changed what was possible...it's not a natural space for corporations to think about human rights issues that are often on the fringes of communities in which we operate," she said.

A process of active listening and dialogue with indigenous communities enabled the communities to describe their needs and establish their own strategy for improving their circumstances. Sherry spent a year attending meetings with indigenous communities. "Now, that's quite a tortuous process for people like me," she said. "I'm in action mode all the time, and sitting back and listening and trying to work through problems that are multi-generational, that have their genesis – some of them – 100 years ago, and that require long-term investment, they're not easy conversations to have and they're certainly not easy to sit and listen to."

Westpac decided to focus on two programmes related to family financial management and small business development in response to hearing directly from indigenous communities about their needs. “They had already thought about things like the fact that nobody understood how to read any bills or save any money,” explained Sherry. “You can’t build an economy in a remote area if people don’t know how to work money, and that’s our business. If all the businesses that start fail, you can’t build a sustainable community,” she said. But the early days of the partnership were experimental. Sherry said, “Let’s just do it and see if we can make that work.”

Westpac’s commitment to the Cape York project

Westpac is partnering with two Cape York organizations, Indigenous Enterprise Partnerships and Balkanu, to participate in two programmes delivered in 16 communities. The programmes are:

- Family Income Management, which works with families and clan systems to help them develop family or individual budgeting skills to cover short-, medium- and long-term financial needs.
- Business Facilitation, which provides support for financial and business management, such as feasibility analysis of either new business proposals or existing businesses.

In mid-2003, Westpac also commenced supporting the Computer Culture Project (now known as Every Child Is Special Project). Computer Culture aims to have Aboriginal school children as part of their school curriculum, and to capture and record Aboriginal culture using digital technology. The cultural aspect is seen as the key to engaging the students and their families with the education process.

The partnership supplies 50 people a year from Westpac’s workforce to work for a month-long period with indigenous

communities on one of these projects. Westpac meets the salary, travel and accommodation costs, and pays a modest allowance. A full-time manager, Vit Koci, is based in Cairns. He recruits and manages Westpac’s volunteers and liaises with local organizations on behalf of the Bank. In addition, several people have participated in year-long fellowships. During this time, Westpac shares the cost of their salary and travel with the Aboriginal organization they are assigned to.

The IEP’s Chief Executive Officer, Michael Winer, says Westpac provides “the foot soldiers” for the programme, but also “brings mainstream economic thinking to combine with Aboriginal economic aspirations and thinking to help our community develop a real economy.”

Recruitment and induction of volunteers

Westpac’s Cape York Programme manager, Vit Koci, has worked for Westpac for 30 years and had extensive regional banking experience prior to beginning the Cape York assignment. He says he is “at pains to ensure that our guys come up here understanding the agenda and not having their own conflicting agenda.” The “agenda” is set by the Aboriginal organizations with which Westpac partners. “I don’t think it’s up to white middle class people like me to be setting the agenda for the strategy in Aboriginal affairs. The strategy and agenda is set by local Aboriginal people, and we have a belief that they have the right to set the appropriate agenda to bring about positive change to their circumstances,” he said. For example, Westpac calls its volunteers “secondees” rather than volunteers. This is an interesting choice of terminology. The people are “seconded” to work for Aboriginal organizations, but while on the programme, they must also place themselves mentally “second” to the Aboriginal communities they work in.

Recruitment criteria place a heavy emphasis on the attitudes and aptitude of volunteers. Recruitment and induction processes aim to weed out those who cannot embrace the mindset required and

ensure those who participate “are going to get into the environment and into relationships that exist in various organizations that we work with.”

Presentations to groups of Westpac employees are supported by an intranet site that outlines the selection process, skills required for each of the projects, and mandatory reading material. Increasingly, word-of-mouth from returned volunteers drives new applications. Currently, around 280 people have applied for a one-month position.

Purcell says the programme is widely supported by managers, who must give permission for their employees to be away for a month. “When the next 20 go up, we’ve got 20 holes in the organization, and we’ve got to match all those positions or make do without them, while they’re up working in the Cape. But no one is pulling away from that programme, and we’ve still got a queue a mile long of people wanting to go,” he said. According to Paterson, the programme is popular with employees because “it’s an opportunity for a lot of our staff to step into the unknown, to challenge themselves and learn a lot more,” he said. “There’s a lot of positive feedback that comes from our staff. They get very, very involved, and it is a life-changing experience for many of them. They come back with very positive stories that encourage others to want to get involved themselves,” he said.

Craig Andrikonis, a Business Banking Manager from Tasmania, has participated in both the one-month and year-long programmes. He says he was “excited” by the opportunity and welcomed the chance to “hopefully make a difference.” “My view was that the Bank has got the expertise to be able to really help some of the people in these communities and...believed this was an opportunity to step outside of my comfort zone and experience something different. If my skills could help in some way, then that’s fantastic.”

After obtaining approval from their manager to apply for the programme and forwarding their resume and reasons for wanting to participate, participants must

go through an extended and intentionally confronting interview run by Koci.

Andrikonis said he was given a number of extreme, hypothetical situations and asked how he would react. “It wasn’t around the knowledge factor, being able to write business plans or understanding balance sheets; it was really around personal situations and how you would react to them.” he said. The hypothetical situations typically deal with family conflict, breakdown and problems arising from alcohol abuse. “If you are sitting in the interviewer’s chair, you can get an idea of who would be suitable, through their responses, to come up and work in an environment like Cape York. You need to know that whoever goes up there has the capacity to be able to cope in potentially very difficult situations,” he said.

Once accepted, volunteers are rostered into groups of 12 that rotate through the dry season (April–October), as during the wet season, roads in the Cape are impassable. Each volunteer completes an intensive, mandatory pre-reading programme that includes a community profile and local economic strategies, Noel Pearson’s book,¹¹ which outlines the philosophy underpinning the partnership, alcohol and substance abuse management plans and strategies, and guidelines published by Aboriginal groups on how to consult with Aboriginal people. Groups fly to Cairns to begin their induction programme run by Koci and the Aboriginal groups. Cultural sensitivity training is a key feature.

The groups are then ready for their journey to the Cape, a two-to-three day overland drive during which the group camps out and begins to bond as a team. They then break into smaller groups or pairs to begin their assignments in one of the 16 communities.

Working for indigenous communities

The early days of Westpac’s volunteer programme were experimental,

according to Sherry. For example, the decision to send volunteers for a month was a trade-off between having people in the Cape long enough to make a difference, but not so long that it would be disruptive for individuals or their work groups. “We knew we were putting people in quite different personal circumstances. We weren’t sure how they would cope ... in some cases with very rough conditions that people went to live in, way outside their comfort zone, and we had to balance people’s safety as well on that. And the final thing that we had to balance was the capacity of the Cape to manage them,” explained Sherry.

The first group to go up faced an unexpected problem in its first week. One of the communities that Westpac had previously had no contact with, Wujal Wujal, went into liquidation. Because assets are community-owned, going broke means virtually all facilities and infrastructure close down, including shops. Westpac immediately moved one of its volunteers from his planned destination to Wujal Wujal. “That was actually a good learning for us,” said Sherry, “because as much as you try to plan and organize and negotiate with communities how it’s going to work ... it’s been quite a common experience that something unexpected happens and we have to do something different. That tested our organizational capacity to flex as well as individual capacity to flex.”

The Westpac volunteer spent a month working through the community’s books and restructured the community’s finances. Unused earthmoving equipment was sold; the community got its money back and was able to continue. However, decision making of this nature is relatively uncommon. Westpac volunteers are required to facilitate and support decision making by local people but not to make decisions for them. For example, Andrikonis, who worked for Balkanu in the business development programme, said, “I saw my role as

not simply writing business plans and presenting them to people, but rather to get people involved throughout the whole process ... and help to transfer skills and knowledge. It’s not a matter of going up there and saying, ‘Tell me about your business idea’, then going away for two weeks, writing a business plan and sending it to them. This would be of no real benefit, as there is no knowledge or skills transfer that is sustainable. For a business to be sustainable, its proponents need to learn and maintain basic business skills, and that’s what I tried to achieve.”

The problems Westpac people work on during their time in the Cape are generally long-standing and complex. Winer says being able to deploy “a critical mass” of people to work on simultaneous projects is a key to achieving progress. “You can’t just tackle one issue at a time. The issues are so interrelated and intense that going and just setting up a business is almost dooming that business to failure because of the social surrounds that it’s trying to function in. Likewise, if we’re not dealing with literacy and numeracy and youth development, who’s going to come forward and benefit from these things? If you don’t have family income management— you’re creating more wealth in the community— where will that money end up being spent? Probably to fuel a greater alcohol epidemic. A crucial element of our programme is a critical mass of projects and people supporting indigenous initiatives so that we can tackle the problem on a number of fronts all at once, but a coordinated approach so the youth programme, social programme, the economic programme, the health programme actually interact with each other.” Winer co-ordinates the activities of several corporate partners wherein each “takes the baton for a period of time, but they’re all facilitated and controlled by the Aboriginal people.”

Debrief and re-entry to the workplace

Volunteers have a formal debrief session with Koci in Cairns at the end of their assignments, and he stays in touch informally by email after the programme. Many volunteers exchange postcards and letters with people they have met on their assignments. After returning to work, volunteers are encouraged to make presentations to their colleagues about their experiences. Settling back to work is generally smooth for those who spend a month in the Cape, but for those who spend a year, re-entry can be harder. Andrikonis says he felt that he had changed and had a different perspective on life. He did not feel completely comfortable going back to his old job and after discussion with his Manager in Tasmania, a new role was created for him in which he was able to use some of the new skills he had developed while working in the Cape. He is now also involved with another indigenous project within Westpac, the Indigenous Capital Assistance Scheme.

Outcomes and impacts

Two groups are substantially affected by the Cape York project. The first is the Cape York communities. Results are expected to take a long time to show, but Winer says early evidence is pleasing. The successful establishment of a small business in one community has “developed an entrepreneurial understanding and spirit within that community ... there’s definitely a mood change happening in communities; there are fewer women in the women’s shelters, there are fewer people going into the hospitals in those communities. I actually think we’re ahead of where I imagined we would be three years ago.”

Westpac’s 2004 social impact report (Westpac, 2004) notes that seven businesses have made a successful start, 40 new jobs have been created, and 600 people have participated in the Family Income Management Scheme. The company has also completed a review of its involvement in the partnership

programme using the AA1000 Assurance Standard.

Local communities who at first had doubts that a bank could offer them anything now look forward to the arrival of the Westpac volunteers. “In some of the places that we have been going regularly, there are a number of Aboriginal families who positively can’t wait for the next group of Westpac people to come into the community and who fully expect to take them around and introduce them. They seem to me to actually benefit just in terms of their morale from their exposure to these people, and it’s a really curious thing now to watch the relationship being transplanted from one group to the next,” said Koci.

The second group profoundly affected by the programme is the volunteers themselves, and through them, the wider workforce at Westpac. Andrikonis says he learned a lot from working in the Cape about indigenous culture and respect for one’s elders. He became more reflective about his own values and direction in life. “I learned a lot about how sometimes we take things for granted in our own lives and that we sometimes put a lot of emphasis on things that at the end of the day aren’t all that important,” he said.

Winer says he notices the impact on Westpac people. “It’s life-changing ... For a lot of people, it’s the first time they’ve been allowed or able to serve the community, and I think that that rebuilds a person’s spirit and confidence ... and I think being entrusted by their company to go out and challenge themselves in this way is also quite liberating ... they’re not just being put in a safe room to pack boxes, they’re being put at the forefront of Australia’s biggest alcohol epidemic and most serious social problems,” he said.

Andrikonis says people who participate in the programme tend to become more tolerant through their exposure to other people’s circumstances. Participants tell Koci it is a “life-changing” experience. “Their view changes of the world and of themselves ... They become more aware of the situation of other people.”

Koci says he is proud to be involved in a programme that is making a tangible impact in indigenous communities. “It is certainly the highlight of my career and life,” he said.

Sherry describes the programme’s impact as “practical reconciliation.”¹² “You do have to have some engagement with real people to feel (a) that it’s even an issue, and (b) that you can do something about it.” Westpac’s success with the engagement model in Cape York has led it to move many of its other community relations programmes from a philanthropic, impersonal model to a capacity-building, personal model. Sherry describes it as a shift “from rattling tins on street corners” to active involvement of employees with community groups and social issues.

The wider workforce at Westpac is impacted through the story-telling and advocacy of returned volunteers for indigenous rights. Andrikonis says the volunteers go back to work and “spread the word.” Hearing about Westpac’s community focus makes people feel good about working for Westpac but also introduces different understanding about how to relate to people. “Because this advocacy of the Cape York programme is coming from your peers, it has a little but more impact on people. It’s like a teller talking about tellers’ errors to another branch. That has more impact than the area manager standing there and talking about it,” said Andrikonis.

Future challenges

Westpac has recently agreed to extend its involvement for a further three-year term until the end of 2010. It has adapted its model to meet the needs sought by projects and during 2006 implemented an extra fellowship position to project-manage Family Income Management. This was at a time when the incumbent resigned and the search for a replacement stalled. More broadly, the company regards increasing indigenous employment as an important goal. It has implemented a recruitment strategy that provides a mix of direct employment into vacant posi-

tions, school based traineeships and cadetships for undergraduates leading to inclusion in the graduate recruitment programme. In 2004, Westpac launched the Indigenous Capital Assistance Scheme (ICAS), an Australian Government initiative, providing access to commercial finance with subsidised interest rates, mentor and professional support with a focus on the early years of business growth or development. ICAS also seeks to build employment outcomes for indigenous people. Indigenous initiatives are co-ordinated through the Indigenous Working Group, which together with government is developing the Indigenous Capital Assistance Scheme to support further economic development.

Vision

Westpac's early vision of itself was of a company that performed an important role in the social and economic development of Australia, particularly by supporting rural and regional development. In the 1980s and early 1990s, that vision dimmed while the company worked to deal with the consequences of deregulation of the banking sector—first by growth, and then by cutting costs. Criticism from employees, customers, the media and activist organizations served to refocus Westpac's leadership on its original vision. As Purcell described it, the “gap” the company had to cross was between its own aspirations and its behaviour. The early steps of the corporate citizenship journey were largely about regaining Westpac's lost vision, and determining what it needed to do to bring its behaviour into line with its vision.

Enablers

Leadership of the Bank was significantly driven by a group of four who shared values and experiences brought from outside the company: Davis, Morgan, Sherry and Purcell. Senior-level public sector experience and experience with indigenous relations issues in the mining sector meant this group was

sensitive to issues of justice and equity. They had advanced skills in issues identification and management, and well understood the importance of building ownership in the outcomes sought by those affected. This is illustrated by the Bank's emphasis on ensuring Aboriginal needs and perspectives determined the projects that were adopted in Cape York, and by its decision to develop a partnership programme that involves, challenges and motivates employees. The Bank's publication of its social and environmental policies and aspirations (Westpac, 2001) and its subsequent adoption of the Global Compact principles in 2002 set a clear policy and strategy framework.

The Cape York partnership requires Westpac to apply significant resources, including people. The CEO's decision to support the programme was based on where the bank could best leverage its resources, such as people and skills, to make a “significant impact on society.” The partnership is empowering both for the communities where volunteers work and for the employees who participate, and is often described as “life-changing” by participants. It is also an innovative approach to entrenched social and economic inequity, requiring a shift in attitude from philanthropy to capacity-building and co-ordination with several external organizations, which individually could not have the same impact.

Results

The company's engagement with Cape York communities has been welcomed by indigenous organizations and individuals alike. Evaluating the social impact of the Cape York partnership is ongoing and long term, but early results include the establishment of viable new small businesses and new hope and optimism in the communities served. The impact on Westpac's people is both immediate and diffused. It is immediate insofar as participants say they become more reflective and tolerant as a result. Its diffused

impact occurs through the stories told by returned volunteers, facilitated through presentations encouraged by management as well as by informal conversations in the workplace. Chairman Davis believes that the experience of participating in the Cape York partnership will influence Westpac's value chain by helping employees “be better representatives to our customers than they would have been before this experience.”

Reporting

Westpac has used GRI guidelines for its annual social impact report, which was first published in 2002 and has used the AA1000 Assurance Standard to assure its recent social impact reports and to review its involvement in the Cape York Indigenous Partnership programme.

Learning processes

Four connected learning processes enable organizations to develop new solutions to old problems; attending, experimenting, integrating and institutionalising. These processes were used by Westpac to develop the Cape York Indigenous Partnership and are identifiable in the ongoing cycles of recruitment, participation and debriefing that occurs with each group of volunteers.

At the organization level, the programme was developed against a background of increasing responsiveness to indigenous issues, but the catalyst was a meeting between indigenous and business leaders attended by Ann Sherry in 2001 in which participants resolved to “come together and see if there was a different way.” Sherry listened at that meeting and in subsequent meetings to indigenous groups as they described their needs and developed their own strategies for addressing problems. Through this “careful attending to external stimuli” (Zietsma et al., 2002, p. S68) Sherry began to see how Westpac could make a meaningful contribution to relieving social and economic inequity in Cape

York. She was able to convince powerful allies at Westpac of the value of the project: the CEO, the Chairman and the head of the retail banking division that would supply the bulk of human resources to the project. The programme was and remains experimental in that flexibility to respond to newly identified needs and problems is a hallmark of the way it is managed. Westpac people will always find themselves in new and challenging situations in this programme and will be required to demonstrate personal as well as organizational flexibility to effectively respond to new situations. The Cape York Indigenous Partnership is now an institutionalised programme within Westpac. Feedback from the programme is captured through the debriefing process, and learning from the experience is applied to both the further development of the Cape York programme and to other community relations programmes. Learning is also expected to flow to operational capacity through engendering more reflective, tolerant and client-focused behaviour in employees.

At the individual level, participants in the partnership apply these learning processes as part of their personal project. First, the process of attending is fostered through the recruitment and induction process, where employees read extensively about indigenous social and economic inequity and then undertake cultural sensitivity training prior to arriving at a community. The attending process continues as employees learn directly in their day-to-day relationships with community members about indigenous culture and values and as a result begin to question their own values and attitudes. Second, the need to transfer skills rather than directly solve problems requires experimentation to help a given family or community develop the capacity to manage their own finances or develop a business. New ways of working generally require cooperation with a range of organizations and individuals requiring agreement about how power and resources will be allocated in the new way of working. The successful

establishment of seven small businesses and development of financial management skills for 600 people indicates that new solutions for problems are being institutionalised.

Learning connects to the Global Compact Performance Model because it is an enabling process that empowers employees to develop innovative solutions to complex social problems and to understand how they can make a personal contribution to solving social and economic inequity. Learning processes also directly affect results because employees become more reflective and more confident about their own skills and abilities.

Conclusion

This case study has described the corporate citizenship journey in progress at Westpac Banking Corporation. The journey began with the realisation that the firm's behaviour had become misaligned with its vision. The changes required to align vision and behaviour led it to attempt a partnership project that tackles human rights problems in Australia and illustrates how a company in a country with a well-developed rule of law can apply the Global Compact principle relating to the protection of human rights.

Purcell says the company did not "get it right with a flick of the fingers. But we gave people permission to do the right thing and started to create a culture that would support people to do the right thing ... It's okay to talk about whether something is the right or wrong thing to do."

The Global Compact provides a set of high-level principles and "moral guidance" (Purcell) for the Bank's leadership and senior management about corporate conduct, akin to the "ten commandments" (Davis) for business behaviour in society.

The case study has also addressed the question of how the firm learns about human rights. It does so at both an organizational and an individual level through its participation in the Cape York Indigenous Partnership. The partnership operates as a complex experience-based learning device with profound external and internal impacts.

Externally, the company is learning how it can apply its unique resources and skills to addressing some of Australia's most entrenched human rights problems. Internally, the Cape York Indigenous Partnership is the catalyst for many formal and informal conversations about human rights and social inequity. The programme is very popular among employees and has contributed to restoring their pride in the organization. Understanding and measuring how the programme contributes over time to social and economic development in Cape York, and exploring how changes experienced by employees "rub off" on customers will be important areas for future attention by the company.

Endnotes

- 1 BRW 1000 list, 11 November 2004.
- 2 The term "shrinking for survival" is borrowed from Carew, 1997, p. 416.
- 3 Interview transcript, Noel Purcell, February 2003.
- 4 Australia has the world's largest reserves of uranium, which are exported for electricity production in other countries. Uranium mining has a long history of opposition in Australia. See Martin, R. 2003. States Exploit Nuclear Worries, *The Australian*: 2.
- 5 Interview transcript, Ann Sherry, April 2003.
- 6 Interview transcript with Westpac employee, March 2003.
- 7 The Social Charter gathered in one document Westpac's policies on governance and ethics, human rights, environmental management, community involvement, employee policies and marketplace practices. Westpac's "Our Principles for Doing Business" is available at <http://www.westpac.com.au/internet/publish.nsf/Content/WICRSR+Our+Principles>.
- 8 Noted in "Memorandum to the Board Social Responsibility Committee," 17 April 2003.
- 9 Other business participants include The Body Shop and Boston Consulting Group.
- 10 Sherry is now a director of IEP.
- 11 N. Pearson, "Our right to take responsibility," 2002.
- 12 Reconciliation is a term commonly used to describe both symbolic and practical measures used to address the disadvantages of indigenous Australians.

ABB and Sudan: The value of stakeholder engagement

Ron Popper*

Human rights issues addressed

- Human rights and environment
- Resettlement and compensation of affected communities
- Security and conflict
- Social investment and community development

Human rights management practices discussed

- Getting started
- Strategy
- Communications

Human rights standards, tools and initiatives mentioned (beyond the UN Global Compact)

- Draft UN norms for trans-national companies
- Global Reporting Initiative
- Business Leaders Initiative on Human Rights

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Abstract

The aim of this case is to examine ABB's approach to human rights issues faced in its Sudan operations.

This case addresses what factors a company should consider in deciding whether to operate in a sensitive (i.e. weak governance) country; what steps it should take to ensure it identifies and mitigates the risks of working there; how a company can avoid complicity in human rights abuses occurring in a country; and the role of company/stakeholder dialogue.

The case study covers the period 2004 to the end of 2006.

Company profile

ABB is a Zurich-based electro-engineering company that provides power and automation technologies and operates in roughly 100 countries.

ABB has never had any manufacturing sites or operations in Sudan. Since the 1970s, the company has acted as a supplier of equipment to other companies there and has not paid direct taxes to the government. At the end of 2006, ABB had one employee based in Khartoum. Virtually all of the work has been concentrated in the Arab-dominated north of the country. Furthermore, the company's volume of business in Sudan was comparatively low (in 2006 the company had double-digit million net revenues, whereas the company turnover was \$28 billion).

ABB and human rights

After its formation through merger in 1988, ABB focused heavily on environmental and social policy, ensuring that it adhered to standards of performance and operations and exceeded international norms and regulations where possible. In the past few years ABB has increased its focus on human rights considerations

in business. One way in which ABB has done this is by becoming a signatory to the UN Global Compact in 2000. ABB also initiated its Access to Electricity rural electrification programme in Africa. As a leader in long-distance power transmission and distribution, it was able to contribute strongly to the World Commission on Dams.

As part of its growing recognition that non-financial criteria were important and contributed to bottom-line success, ABB began actively participating in the Business Leaders Initiative on Human Rights (BLIHR). ABB is also active in a number of other initiatives.

ABB's case study on Sudan has been presented at a number of meetings and conferences organized by international organizations including the UN Global Compact, BLIHR, Amnesty International Business Group and socially responsible investment funds. This case study emphasizes the need for partnerships and extensive stakeholder engagement in sensitive countries. A stock divestment campaign in the United States in 2005/6 by pension funds and universities against companies with business operations in Sudan also led ABB to carefully consider the possible consequences of its actions in Sudan, as well as its

* Ron Popper is the Head of Corporate Responsibility, ABB Group. Peer review of this case study was provided by Dr. Ralph Hamann, University of Cape Town. At that time, he was associated with the Centre for Corporate Citizenship, University of South Africa. This case study was also presented and discussed in a multi-stakeholder setting at the Global Compact Learning Forum, which took place in Accra, Ghana, on 22-24 November 2006.

responsibilities and associated human rights issues in the country.

ABB's operations in Sudan

Merowe Dam

The Merowe Dam project is 450 kilometres north of Khartoum. When completed in 2008, the dam will double the country's power supply. Power from the dam will be distributed mainly to Dongola on the Nile, the Khartoum region and Port Sudan on the Red Sea coast. ABB has supplied distribution and transmission equipment. This was by far the largest of ABB's power contracts in the country. ABB has supplied to contractors at the Merowe Dam, such as Harbin Power Engineering Company (China) and Alstom. The customer is the National Electricity Corporation. Other power transmission and distribution equipment has been supplied to other projects in the north of the country.

Heglig oil field

In 2003, ABB won a contract to supply flow control meters to the Heglig oil field in the "border" area between south and north Sudan. The meters, essential for safety, were supplied to the China Petroleum Engineering and Construction Company. The customer was The Greater Nile Petroleum Operating Company. This contract has been completed.

Equipment supply

Low-voltage equipment, such as light switches, was supplied through third parties to individual customers in Sudan. The volume of this business was very small.

The human rights argument

ABB abides by all relevant international sanctions and export control regulations. It has faced criticism, however, over its involvement in Sudan and allegations of complicity in human rights abuses in the country.

A number of ABB stock investors in the United States, Switzerland and Sweden expressed concern in 2005/6 about the company's presence in Sudan, in view of the ongoing atrocities in the western Darfur region. In some cases, this concern

was accompanied by a threat of stock divestment and a demand to pull out of the country (see 6.c below). These investors viewed ABB's presence in the country as tacit support for a government which the US administration had branded as responsible for "genocide" (a term not used by other governments).

The International Rivers Network, along with other NGOs, opposed the Merowe Dam project for a number of reasons. The dam was displacing 50,000 ethnic Amri people; there were allegations of forced movement, inadequate compensation and poor agricultural conditions in their new home areas. In addition, IRN pointed to environmental damage and the flooding of a significant archaeological site caused by the proposed dam.

Finally, the supply of flow control meters to the Heglig oil field was viewed by some as tantamount to supporting the government's campaign and activities in Darfur. The line of argument was and still is that oil is the government's main source of income and consequently its main source of funds for military operations in Darfur. ABB was therefore accused of helping to bankroll the military.

In conclusion, ABB was accused of abetting the violation of civil and political rights in Darfur and violating the economic, social and cultural rights of the people affected by the construction of the Merowe Dam.

The need for stakeholder engagement

As early as 2004, prior to the main flurry of criticism, ABB considered the possibility of examining, in depth, its human rights practices. This found form in:

- A human rights checklist, based on the *Draft UN norms for trans-national companies* and Global Reporting Initiative indicators, which ABB drew up on behalf of the BLIHR group and tested in some of its operations in sub-Saharan Africa. The checklist for project managers (see BLIHR 2 Report) was later deemed

to be only a partial success; it was effective for countries with strong governance, but found to be inadequate in more complex situations.

- The idea of engaging in stakeholder dialogue on Sudan and holding a forum of stakeholders in Khartoum to test ABB's assertions that it was a force for good in the country and not complicit in any human rights abuses.

ABB sought to clarify a number of key issues in Sudan. Broadly, the priorities were to:

1. Map stakeholder opinion about its business activities in the country;
2. Identify which human rights were impacted, directly or indirectly, by its business;
3. Establish if there were any areas where ABB was complicit in human right violations;
4. Establish if such violations were taking place within its sphere of influence;
5. See what it could do to improve human rights within its sphere of influence; and
6. See if there were lessons to be learned in Sudan that could be applied in other countries where the company operates.

Proactive engagement

This period coincided with a phase in which ABB was rebounding to economic health after a crisis. ABB proactively engaged with three groups: consulting specialists, stakeholders on the ground in Sudan and critics. In addition, as the work continued, ABB increased engagement with its management and employees.

Consulting specialists

ABB consulted with Professor Alan Miller of McGrigor's Rights, an international human rights lawyer with specialist knowledge of Sudan; Amnesty International Business Group; and latterly, organizations such as the UN Global Compact. The presence of an external adviser from the

start not only provided ABB with excellent advice (and sometimes pointed criticism), but also provided direction to ABB in operating with greater sensitivity to human rights. Professor Miller also provided credible third-party insights during discussions with stakeholders. Amnesty International advised ABB that it should proceed with caution and engage with stakeholders to ensure the validity of the company's claim to be a force for progress.

Mapping stakeholder opinions and conditions in Sudan

Professor Miller and two ABB colleagues – one from ABB Egypt, which has stewardship over the company's activities in Sudan, and one from ABB Sweden – paid several visits to Sudan over the course of a year. They held a series of discussions with representatives of different government ministries, international NGOs, UN and international agencies, as well as members of the Merowe Dam authorities (MDPIU), diplomats, the British Council and others. The feedback received was unanimous: all stakeholders advised ABB against withdrawing from the country. To do so, they said, would undermine the fragile reconstruction process and deny the country much-needed infrastructure.

Partnerships pay off

The process of setting up a stakeholder forum meeting was challenging and protracted. The outcome was a successful meeting in Khartoum, May 2006, initiated by ABB, and subsequently organized by the UNDP and Afhad University for Women in Khartoum, with co-sponsorship by ABB and Shell. The meeting – called “Public-private partnerships: A post-conflict framework of shared opportunities and responsibilities” – was attended by 40 representatives of the government, local and international businesses, NGOs, local and international UN officials and observers. It was addressed by Sudanese and foreign speakers. Speakers addressed what is being done to strengthen business

and social conditions in Sudan and other parts of Africa, and the need for strong governance and observance of human rights norms. There were also break-out sessions on the most effective means of creating the right business climate in the country so investment could go ahead without fear of perceived complicity in human rights abuses.

The meeting concluded with a decision to set up a local UN Global Compact network, led by local business with the support of the UN. It marked a “modest but valuable step” towards progress in Sudan, according to a representative of BLIHR at the Khartoum meeting. A follow-up meeting is expected in 2007. ABB believes the outcome of the forum demonstrated how a company can be a force for positive change.

Meeting concerned stakeholders

Starting in spring 2005, concerned investors from the US, Switzerland, and Sweden questioned ABB about the company's business operations in Sudan and possible complicity in human rights violations. The inquiries ranged from polite inquiries by investment fund managers to threats to divest ABB's stock unless it withdrew from Sudan. ABB decided to present transparently what it was doing in the country and seek dialogue proactively. This decision to engage directly with different organizations was generally productive and illuminating for both sides.

The meetings started in September 2005 with two Swiss investment funds; later in the year they withdrew their intended divestment of ABB stock on the basis of that conversation and agreed to watch further developments. In response to ABB's communications with stakeholders, stakeholders in some cases placed ABB on “watch” lists instead of targeting it for immediate divestment.

While several meetings were held under the Chatham House rule, the contents of others – and statements on certain issues – were recognized as being in the public domain and were published on stakeholder partners' websites.

Employee consultation

In November 2004, the then-CEO and chairman Jürgen Dormann – who wrote regular weekly letters to all employees – focused his attention on working in sensitive countries in his weekly communication on the intranet. In one weekly letter, Dormann considered business involvement in a sensitive country and ABB's role in long-term infrastructure development. He presented issues and offered opportunity for feedback. Subsequently, with investor pressure mounting, top management closely reviewed the issues associated with continued business involvement in Sudan. Top management was vital to setting the tone for in-depth discussion and further external engagement.

Key issues

ABB examined its performance and potential for improvement within the context of models drawn up by BLIHR. In particular, ABB assessed how it measured up against “essential,” “expected” and “desirable” levels of human rights obligations in Sudan and sought to define its sphere of influence.

Generally

The standards that ABB set in its operations on the ground went well beyond the level of “essential behaviour” – observance of national and international legal minimums – and in some areas went beyond the level of behaviour “expected” by a company (see examples below).

Merowe Dam

ABB could justifiably assert that its power equipment supports economic and social development in the north of the country, and the provision of power supports human rights such as the right to health, education, housing, etc. This was not enough to satisfy some NGOs who believe the dam to be inimical to the environment and the rights of local people, and called for the project to be suspended.

ABB offered support to the Merowe Dam Implementation Unit, the local authority dealing with the dam, in

resolving re-settlement issues. In spring 2006, as local tension mounted, there were reports of a government force or a pro-government militia shelling a meeting of the Amri people at a school and killing three people. ABB took the step of formally protesting against the incident in a letter to the Sudanese authorities and calling for a full and public inquiry. It also renewed an offer to help with training. Examples of moving beyond “expected” behaviour:

- The Sudan Forum of May 2006, which led to the setting up of the local UN Global Compact network
- The offer of training to the Merowe Dam Implementation Unit
- The letter of protest, coupled with an understanding of the potential consequences

Heglig oil field

This one-off contract to supply flow control meters was designed to ensure safety. There is no evidence that revenues gained in the provision of this service were used to fund military conflict in Darfur.

Darfur

The extensive discussions on the ground, which included external human rights experts, did not implicate the company. ABB was not present in that area and paid no taxes to the government. ABB representatives spoke openly to government representatives about the need to create the right conditions in Sudan for foreign companies to operate, and the potential damage of conflicts.

ABB is also aware that in certain circumstances a company can be confronted by “conflicting or competing rights.” In the case of the Merowe Dam project, the supply of equipment to enable reliable power transmission and distribution supported key human rights, as stated above, such as the rights to health, education and housing. On the other hand, dam projects invariably lead to the displacement of people and have an environmental impact.

The need for a common framework

At the start of 2007, ABB announced the suspension of new business activities in Sudan, adding Sudan to a list of countries where the company does not take on new business activities.

ABB cited political, legislative and economic reasons for its decision, including pending federal legislation in the United States. The company said it had been monitoring political and economic developments for some time and would resume new business once it believed the conditions were appropriate. However, ABB is maintaining involvement in humanitarian projects in the country.

ABB has been working with other companies in the BLIHR group on a project – Good Governance in Sensitive Countries – to define a “common framework,” that is, the standards and behaviours that companies should observe while working in a sensitive country. Companies would benefit from such a “common framework” that is recognized by strategic stakeholders including business, governments, NGOs, investors and legislators.

Some of the lessons from Sudan can be applied in other circumstances. The following is a summary of some of ABB’s key lessons from Sudan.

Identify human rights issues

1. Identify the environmental and social issues at an early stage. What are the likely risks/benefits/opportunities? What opportunities exist to mitigate risk?
2. Identify non-financial factors in individual project risk reviews at a pre-tender stage.
3. Educate key decision makers and sales managers about the unique challenges of each project.
4. Ensure that different parts of the business are working in tandem to support human rights.

Identify the company’s spheres of influence and responsibilities

5. Does the company have a clear idea of its likely spheres of influ-

ence and environmental and social responsibilities in its involvement in a particular project?

6. The company needs to map and engage potential stakeholders at an early stage. These include:
 - a. Commercial partners, investors and supply chain
 - b. Communities and individuals directly and indirectly affected by the project, i.e., rights-holders
 - c. Relevant authorities of project and host country governance
 - d. NGOs, local and international
 - e. National and international specialist organizations
 - f. Employees

Identify actions to be taken

7. Educate stakeholders about the potential benefits and responsibilities of a project.
8. Encourage clear and consistent internal and external communications.
9. Regularly review each project and assign an accountable supervisor.
10. Apply the lessons from previous similar issues.

Conclusion

ABB invested a considerable amount of time and energy into the examination of its record in Sudan. This could not have been completed without the participation of senior management. Lessons learned from this experience are now being applied to future projects. ABB is working with other companies in the BLIHR group to design a “common framework” for the engagement of business in weak governance states. Agreement on “shared responsibilities” benefits all stakeholders, including employees working and people living in sensitive countries.

Reducing essential micronutrient malnutrition in developing countries: A BASF partnership

Monique Bianchi*

Human rights issues addressed

- Right to health
- Right to food
- Social investment and community development

Human rights management practices discussed

- Getting started
- Strategy
- Policy
- Processes and procedures
- Communications
- Training
- Measuring impact and auditing
- Reporting

Human rights standards, tools and initiatives mentioned (beyond the UN Global Compact)

- International Convention on Economic, Social and Cultural Rights
- Global Alliance for Improved Nutrition

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Abstract

This case study describes how BASF developed and implemented a partnership initiative to help

meet essential micronutrient needs in developing countries.

BASF's Micronutrient Malnutrition Initiative aims to decrease malnutrition, particularly vitamin A deficiency, in these countries. The Initiative achieves this through public and private partnerships that facilitate the fortification and distribution of staple foods in specific communities. Malnutrition is an important human rights issue that affects billions of people around the world. The Initiative is thus an example of how a company can support and respect human rights (Global Compact Principle 1) within its area of expertise. The case study focuses on a food fortification project in Kenya, where malnutrition is a prevalent problem. The project was conceived in 2002 and is ongoing. The ultimate goal is to implement a nation-wide programme combating malnutrition.

Company profile

BASF originated in 1865 as a dye-making company in Ludwigshafen, Germany, and is one of the world's leading chemical companies. The vision of its founder, Friedrich Engelhorn, was to create a company that would cover the entire production process from raw materials and auxiliaries through precursors and intermediates to dyes.

Today, BASF has approximately 94,000 employees, 100 production sites, and customers in over 170 countries. Its main segments are: Chemicals; Plastics; Performance Products; Agricultural Products and Nutrition; and Oil and Gas.

From its foundation, BASF has sought to be socially responsible. As early as 1870, it provided affordable housing, health insurance plans, on-site medical facilities and recreational facilities for its employees and their families, and implemented occupational health and safety practices in the workplace. In the 1960s, the Company introduced rotary furnace incinerators for waste disposal, and in the 1970s, it developed a wastewater treatment facility in Ludwigshafen, which, to this day, treats the wastewater of the plant as well as of the region.

* Monique Bianchi has a Bachelor Business (Accounting)/Bachelor Law from Southern Cross University. She is currently completing a Masters of Comparative Law (Adelaide/Mannheim) and working at the Max Planck Institute on the EPIL project. The author would like to thank Professor Dr. Eibe Riedel, the Dean of the University of Mannheim Law School. Peer review of this case study was provided by Prof Errol Mendes, Professor of Law at the University of Ottawa, Canada. No funding was accepted from BASF for the preparation of this case study. The complete version of this case study, including additional references, is available on the UN Global Compact website at www.unglobalcompact.org.

“By networking with a variety of partners, we are opening up new ways of contributing to sustainable development worldwide. At the global level, we are a founding member of the United Nations Global Compact, and we remain committed to this initiative,” stated Dr. Jürgen Hambrecht, CEO of BASF in 2004. He believes that “companies that ensure sustainable development will be more successful in the future” and that this is “the only way to win the global battle, the battle against poverty, hunger, disease and lack of education.”¹

Practicing responsibility is a tradition at BASF. Ensuring sustainable development is the logical strategic continuation of a traditional, intuitive form of social responsibility. Sustainability is part of the Company’s overriding corporate strategy (“Ensure sustainable development”) and is being increasingly integrated into core business activities.

In 2001, BASF formed the Sustainability Centre to meet the Company’s vision for sustainable development by implementing environmental, social and economic sustainability, the three main pillars of sustainable development. They do this globally through the Regional Steering Committees formed in 2004.

The Sustainability Centre reports to a Sustainability Council, which includes, at its head, Eggert Vorscherau, who is also a Member of the Board and the Industrial Relations Director for BASF. Through this decentralized structure, BASF implements its sustainable practices and the realization of the GC principles. The appointment of a Member of the Board indicates high-level commitment to make sustainability and the GC an integral part of BASF’s strategy and practice. The role of the Sustainability Centre includes providing internal advice on sustainable projects as well as the implementation of these projects. An example is dialogue with external stakeholders, such as NGOs (non-governmental organizations) and governmental organizations.

Further, in 2004, Dr. Jürgen Hambrecht, the Chairman of the Board of Directors, announced BASF’s long-term

policy: “We have given our route to the future a name: BASF 2015. All of us must align our day-to-day work with four strategic guidelines:

- Earn a premium on our cost of capital
- Help our customers to be more successful
- Form the best team in industry
- Ensure sustainable development”²

BASF was one of 44 companies to sign on to the Global Compact upon its inception. The Company has since launched or become a partner in projects in over 25 developing countries to demonstrate its commitment to the Global Compact principles.

What is micronutrient deficiency?

Micronutrient deficiency is a special form of malnutrition where an individual does not receive the essential recommended intake of vitamins and minerals, often referred to as “hidden hunger.”³ Micronutrients enable the body to produce enzymes, hormones and other substances essential for proper growth and development.⁴ They derive their name from the fact that they are needed only in miniscule amounts. More than 2 billion people worldwide are affected by micronutrient deficiencies.⁵ An estimated 1 million people die annually from Vitamin A deficiency alone.⁶

The relevance of adequate nutrient intake is recognized under the International Covenant on Economic, Social and Cultural Rights (ICESCR), which is a part of the International Bill of Human Rights. Among other rights, ICESCR advocates the progressive realization of the human right to food, which “[i]mply[es] that the diet as a whole contains a mix of nutrients for physical and mental growth, development and maintenance, and physical activity that are in compliance with human physiological needs at all stages throughout the life cycle and according to gender and occupation.”⁷

Micronutrient deficiency and its prevalence affect the enjoyment of other fundamental human rights proclaimed in Article 25 of the Universal Declaration of

Human Rights; and Article 55 of the UN Charter. These articles refer not only to the right to food, but to basic health and well-being of self and family. Essentially these rights are interdependent: Without access to food, health becomes an issue; in an unhealthy household, the ability of family members to work and learn is affected, resulting in a decrease in income that will, in turn, limit that family’s ability to obtain nutritious food.

In November 2004, the Food and Agriculture Organization of the United Nations translated these rights into voluntary guidelines that support the realization of the right to adequate food in the context of national food security. The voluntary guidelines also consider and incorporate the Millennium Development Goals.

The “Copenhagen Consensus,” a study undertaken by some of the world’s leading economists, found that the alleviation of malnutrition is one of the world’s biggest challenges and that it could be accomplished with relatively little cost.⁸ The public benefits would outweigh the costs by as much as 200:1, compared to 40:1 for supplementation.⁹

A recent report published by the Conference Board, Harvard University’s Kennedy School of Government and the International Business Leaders Forum, with the support of the World Bank and the Global Alliance for Improved Nutrition (GAIN), strongly advocates the inclusion of the private sector when addressing micronutrient malnutrition. The report found that there is a clear business case for tackling malnutrition. Fortified foods provide new opportunities to add value; economies of scale lower prices, thereby reaching new customers; and raising product quality stimulates competition and trade.¹⁰

Vitamin A deficiency

According to the World Health Organization (WHO), Vitamin A deficiency is one of the three most prevalent micronutrient deficiencies in the world; the others are iron and iodine. These three deficiencies affect at least one third of the world’s population.

Vitamin A deficiency affects the most vulnerable members of developing countries, predominantly children and pregnant women.¹¹ An estimated 254 million preschool children have a Vitamin A deficiency.¹² The normal growth of a child is dependent on a regular supply of Vitamin A. Vitamin A deficiency can cause blindness and is also a contributing factor in impaired immune systems, diseases of the lungs and intestines (e.g., tuberculosis, pneumonia and diarrhoea), and complications from other diseases like HIV/AIDS, malaria, measles and anaemia.

Vitamin A is found in milk, liver, eggs, red and orange fruit, and leafy green vegetables. Communities whose members live on less than US\$2 per day can rarely afford these foods. The diet in developing countries is often based on a single staple food—the cheapest available. Enriching these staples with essential micronutrients, like Vitamin A, is not only a feasible technology for local food companies, but the most cost-effective means to prevent micronutrient deficiency.

What are the economic and social effects of micronutrient deficiency?

GAIN's technical situation analysis underscores the negative economic and social effects of micronutrient deficiencies, something that has been consistently confirmed by clinical and epidemiological evidence. The evidence shows that:

- micronutrients are essential for the survival, health and chemical processes of the body;
- a reduction in micronutrient deficiency coincides with an increase in the immune system of individuals, which prevents disease;
- all age groups can benefit from an increase in micronutrients; however, pregnant women and adolescent girls are the most vulnerable groups due to their consumption patterns and special dietary needs;

- a reduction in micronutrient deficiency in children increases their learning capacity and attendance at school; and
- a reduction in micronutrient deficiency coincides with an increase in adult aerobic capacity and productivity.¹³

Development of the Initiative

Before BASF launched the Micronutrient Malnutrition Initiative, the Company had already taken part in, or was engaged in, a number of projects addressing micronutrient deficiencies. However, its role was generally limited to participation rather than initiation of such projects.

Two BASF Business Nutrition Unit employees conceived of the Initiative in 2002. They were passionate about the challenge of alleviating malnutrition in an economically sustainable way and recognized that BASF had the capacity to help reduce malnutrition due to its food fortification expertise and experience. Upon becoming a participant in the Global Compact, BASF transformed its approach from reactive to proactive, a change that encouraged these employees to present a long-term malnutrition strategy to BASF's Board.

The first challenge was the development of a business case for the project. The Company realized that despite there being a humanitarian need for food fortification in developing countries, there was no demand backed by sufficient purchasing power. BASF employees thus had to appeal to management's altruism in the short term as well as highlight the long-term economic and financial benefits to the Company.

Their main challenges were to:

- convince management that the Initiative fitted into the BASF culture and business model of being economically sustainable and socially responsible in the long term;
- identify the right departments and individuals who could contribute to the project within their

mandate and professional skills; and

- balance the business and humanitarian case for malnutrition and determine what they could offer one another.

The employees presented a business case to management that offered ten reasons why the project was valuable. These were:

- contributing to the corporate citizenship profile of BASF, e.g. through sustainability reporting relevant for sustainability investment schemes;
- increasing employee motivation and other human resources benefits, like attracting prospective employees;
- gaining positive recognition among stakeholders in governmental relations, including national governments;
- developing markets in less-developed and developing countries in times of stagnating growth in mature economies;
- addressing needs of “underserved” populations at the “base of the economic pyramid,”¹⁴ including the potential to grow these markets;
- multi-layered benefits from partnering with the UN and other non-profit organizations;
- opportunities for tenders and business opportunities unrelated to the project;
- “softer” benefits such as the effect of economies of scale—the larger the project, the larger the target group reached, and the higher the likelihood of the Initiative's long-term sustainability and success;
- at the macro level, relatively low costs with high social returns;
- demonstrating BASF's commitment to contribute to the UN Global Compact and communicate on its progress in implementing the ten principles.

After an internal approval process

considered the above reasons, BASF agreed that it would initiate and support projects that involved local industries as well as governmental and NGOs with the long-term view of the localities becoming self-sufficient. The extremely favourable cost-benefit ratio was key—as was the existence of the Copenhagen Consensus—in persuading management to invest time and effort in combating poverty-related malnutrition. Subsequent research determined which countries or regions were the most susceptible to micronutrient deficiencies, which types of micronutrient deficiencies were most prevalent, and which partners were the best for the projects. These countries include, but are not limited to, Morocco, Kenya and the Philippines. Projects are in place for each of these countries.

Partners

In developing and implementing the project, BASF entered into a number of partnerships. These include:

- GAIN—In 2004, BASF entered into a partnership with GAIN because of its technical capabilities. GAIN's mission is “to reduce malnutrition through the use of food fortification and other strategies aimed at improving the health and nutrition of populations at risk. GAIN has a key alliance-building function, bringing together both public and private partners around common objectives, and provides financial support and project implementing expertise.”¹⁵ GAIN was an essential partner due to its expertise in the area of nutrition programmes and its ability to bring together public and private partners. GAIN also provides funding for such projects.
- Maplecroft—This specialist research and advisory company focuses on the non-financial performance of multinationals. Its vision is to “enhance the capacity of organizations, enabling them to optimize their contribution to society's goal of sustainable development.”¹⁶ This partnership resulted in a new, interactive global map of hunger

in collaboration with the United Nations World Food Program.¹⁷

- GTZ—The German Agency for Technical Cooperation provides technical capacity building to local food industries and facilitates multi-stakeholder workshops at the country level. GTZ operates 2,300 technical cooperation projects in 160 countries, and works for German Ministries, as well as the EU, the UN and the World Bank. GTZ has extensive field expertise in public-private partnerships (PPP).

Strengths and challenges of the Initiative

BASF faced the following challenges in developing the Initiative:

- BASF has a limited presence in many developing countries, especially in Africa, where a number of the projects are taking place. Relying on partners and outside sources can limit the project to the resources of the respective partners. The partners selected are thus typically local firms that need only minimal capacity building and training by BASF in order to produce the food products.
- BASF produces vitamins but not minerals or iodine. It has the expertise and product solutions to deal with only one-half of the micronutrient malnutrition issue. This challenge is tackled, again, through collaboration with various partners.
- The identification of suitable food vehicles for fortification usually requires the sourcing of a widely consumed and affordable staple food.
- Public partners may hesitate to join the project because it falls outside the usual scope of the partnerships that they engage in. Traditionally, aid for malnutrition focuses on ad hoc, short-term solutions, such as distribution of supplemental vitamin capsules. This approach remains useful to reach populations

that cannot be reached by market-based projects, like the Initiative.

- NGOs often provide non-fortified food aid, which can delay the introduction of fortified food to a community. Although such provisions meet malnutrition needs, they do not necessarily give the correct level of micronutrients. Through advocacy, NGOs now realize the need to address both the macronutrient and micronutrient challenges, and are altering their practices.
- Rather than a charitable humanitarian project, BASF aimed to make this a long-term, economically sustainable initiative, something best addressed by the project making itself self-sustainable. BASF is complementing this approach with charitable projects like the BASF Social Foundation discussed below. However, a charitable approach towards reducing malnutrition does not help to make the projects and the communities that they are supposed to support self-sustaining.
- BASF had to become aware of and address cultural differences in different countries, regions and communities. Whenever the Company moves into new regions and communities, it must research their culture and their consumption patterns, potential local partners and the best way to educate the community on the benefits of purchasing fortified foods. BASF branch offices employ 80%–90% local residents, which is helpful in addressing cultural variations.
- BASF's desire is to develop a global model for food fortification while trying to satisfy local differences. Adaptations to a universal model can be difficult and constantly challenge BASF and other companies initiating similar projects.
- BASF has had to look at its internal culture and attitude towards the Initiative. BASF's employees—the

nutrition division in particular—are proud of what the Company does for this Initiative and they support all food fortification initiatives. However, conflicts arise between the distribution of resources and BASF's goal of long-term economic sustainability. Management must decide between private tenders and tenders to the Initiative. The Company will prioritize the Initiative whenever it can, but, ultimately, it is accountable to its shareholders.

- Donors increasingly demand sustainable and market-based solutions. The trend is to aim for the long-term self-sufficiency of all programmes and initiatives. Often, public-private partnerships are needed to reach the (potential) beneficiaries who cannot be reached by markets.¹⁸

Project implementation

BASF launched the Kenyan project in 2002.¹⁹ The goal of the project is to provide for fortification of edible oil nationwide. This is an ambitious goal that requires BASF and its partners to be dedicated to the project over the long term.

First, BASF trained Kenyan staff in the food fortification process and built food fortification capacity locally. The head of BASF's Food Fortification department invited local employees to Germany to participate in workshops with colleagues from all over the world. They received training on diverse issues related to both micronutrient malnutrition and BASF's envisaged engagement. The training identified the country's specific challenges and potential solutions, including BASF's contributions, and resulted in a plan that needed to be discussed with local stakeholders in Kenya.

BASF entered into a local partnership with High Chem, a company that is committed to and engaged in food fortification. High Chem's owner guided the formation of a local food fortification multi-partner stakeholder team. BASF's

international relations team helped to facilitate first contacts, negotiations and dialogues with potential and current partners of the Kenyan project in its initial phase.

BASF also assisted local industry involved in the project by providing technical training for oil fortification and supplying testing kits to assist in on-site quality control and compliance.

In 2003, the first annual East African Conference brought together all stakeholders in food fortification. With the support of GAIN, this conference facilitated dialogue and mutual learning geared towards forming a multi-stakeholder alliance that develops an operational road map for a national food fortification scheme.

This conference, attended mostly by local business and the public sector, was rated useful by the participants in their evaluations. The conference was considered to be a good dialogue platform useful in raising awareness of the malnutrition challenge and available solutions. It facilitated learning among the participants about food fortification technologies and their application, as well as the importance of well-structured and operational public-private partnerships.

Participant evaluations of the conference yielded the following results:

<i>Sectors Involved</i>	
Business	21
Government	5
Int. organization	1
Civil society	2
Academia	2
Other	1

<i>Useful for the attendees</i>	
Extremely worthwhile	28%
Very worthwhile	69%
Worthwhile	3%
Hardly worthwhile	—
Waste of time	—

The conference was
(31) a source of information
(28) well organized

- (22) a source of learning
- (18) good networking
- (15) inspiring
- (14) knowledgeable
- (12) balanced
- (11) thought-provoking
- (5) “rushy”
- (1) a marketing event
- (1) solid
- (1) entertaining
- (-) boring
- (-) too technical
- (-) too political

The participants thought food fortification/malnutrition can be addressed best

- (23) through cooperation of diverse partners
- (2) within social responsibility of companies
- (2) by the government
- (1) as a pure business case for companies
- (1) by civil society organizations
- (0) by developmental organizations

The extent to which the participants changed their attitude towards food fortification (FF)/malnutrition

- (14) awareness of broader picture
- (11) deepened my commitment
- (7) want to learn more
- (7) will consider engaging in FF
- (4) met new partners
- (2) will encourage others
- (1) will change my business
- (1) no change (this participant was already involved in FF)

The factors to be considered if engaged in food fortification

1. Quality of the product (18)
2. Technical support by supplier (13)
3. Price of product (8)
4. Social responsibility of supplier (8)
5. Logistics and local presence of supplier (5)

After the first conference, the project risked losing momentum, which spurred BASF, GAIN and their partners to intensify joint efforts towards the creation of a self-sufficient local National Food Fortification Alliance (Alliance). Based on the workshop recommendations, the Alliance

involved the national bureau of standards, local industries (based in Kenya), consumer groups and, over time, the government. The Initiative led and provided financial support to the creation and maintenance of the Alliance, which then created a concrete road map and goals and enhanced advocacy opportunities, including a well-managed labelling scheme for fortified staple food. Such alliances are run successfully in a number of countries.

The formation of the Alliance led to the 100-day Rapid Results Initiative (RRI), which aimed to fast-track the fortification of fats and oils with Vitamin A. The goal was to “have at least 3 edible fats and oils brands on the shelf with the Vitamin A fortification logo by December 16th 2006.”²⁰ The RRI also fast-tracked standards for fortified foods, reviewed studies on the prevalence of micronutrient deficiencies, sought support from public and private bodies, educated the public and reviewed/developed food fortification laws.

The RRI has succeeded to such an extent that in 2007 a nationwide programme was implemented to build on its accomplishments. The RRI raised awareness of food fortification among the government and the public and private participating institutions. The RRI also assisted in the creation of a certified vitamin A logo for fortified oil. Since the RRI, there appears to be a movement in industry perception with regard to oil fortified with vitamin A, with nine more brands applying for certification of oil with vitamin A. This suggests that the education campaign to encourage the purchase of fortified oil with vitamin A has been successful.²¹

While it is still too early to demonstrate improvements in the health indicators of the population as a result of this project, if an increase in demand and consumption of fortified oil can be shown, an increase in the health of the population should be expected. There is ample scientific evidence revealing that an increase in vitamin A intake through fortified foods will lead to an increase in the health of the population.²²

Additional activities supporting project implementation include:

- Initiation of and engagement in GAIN’s National Fortification Alliances (NFAs)²³ – “The National Fortification Alliance is a multi-sectoral partnership formed to formulate and implement collaboratively a comprehensive national food fortification strategy and programme(s).”²⁴ The NFAs’ goal is to implement projects that create long-term sustainability for a specific community. BASF supported NFAs by providing dialogue platforms and facilitation based on the strengths and capacities of all its partners, including GAIN’s knowledge and experience in forming the correct blend of partners to ensure the success of a project.
- Technical capacity building for local industry – BASF provides technical training and advice on the food fortification process to local food industries. BASF conducts training workshops in more than 20 developing countries geared towards transferring the technological capacities necessary for food fortification.
- Free analytic and testing capacity to those partners and programmes that are approaching the implementation stage of food fortification.
- Developing and distributing a field-testing kit that tests staple foods at rural market or even household levels. Governments can also use the kit to monitor and quality control locally produced food.²⁵

Project financing and resources

Based on their particular strengths, participating partners provide financing and resources for the implementation and execution of projects. BASF contributed product solutions, technical capacity building and analytical capacity and donated field-testing kits.

The GAIN Foundation is the most important provider of funding for micronutrient malnutrition projects like this one. In addition, GAIN’s expertise in bringing together

different partners ensures continued success. GAIN also monitors and evaluates projects that it participates in to discern their strengths and weaknesses and to provide feedback to the stakeholders involved.

Additionally, the BASF Social Foundation is engaged in charity hunger initiatives, which complement BASF’s corporate Initiative. The BASF Social Foundation, in partnership with UNICEF and GAIN, has developed a Global Employee Donation Scheme. The expected financial contribution of the Company amounts to €100,000, serving as seed funding for complementary donations from 90,000 employees. These charity initiatives aim at reaching the most vulnerable groups that cannot be reached by food fortification initiatives alone, namely children, pregnant women and mothers.

BASF has not limited its projects to the food fortification process. The Company also financed a number of studies and conferences. For example, on 22 August 2006, BASF and its local partner, High Chem, organized and participated in a food fortification conference in Maputo, Mozambique. Participants included representatives from ministries, NGOs, consumer associations and industry with the aim of promoting discussion about possibilities for fortifying food staples in Mozambique.

Monitoring and evaluation

Project monitoring is done on several levels. Public sector institutions such as GAIN conduct efficacy studies, as do national standard bodies (e.g., controlling food samples at processing or household level). It is the Company’s understanding that NGOs (including GAIN) and governmental organizations, as well as other interested bodies, research the ongoing effectiveness of the Initiative and other such projects. GAIN also provides national data on malnutrition, including micronutrient deficiency, and monitors particular projects. Additionally, the BASF field-testing kit enables NGOs and standard-setting bodies to test food provided not only by BASF but by other companies.

BASF also monitors the project internally. This includes quality testing to ensure safety and stability. All products are analysed before delivery, and BASF takes a

sample of each batch before distribution in case of any concerns or complaints. This ensures transparency and reinforces a good brand image, which is essential for BASF's long-term reputation and good will. In addition, BASF evaluates all its technical capacity building activities and collects participant feedback to enable self-learning and continuous improvement to the Initiative.

An independent study on the long-term nutritional impact of all BASF-supported programmes has not yet been undertaken, partially due to the high cost and time requirement for such a study.

Conclusion

BASF conducted an internal study as part of this case study. It estimates that more than 1 million undernourished people with the most severe micronutrient deficiencies are currently reached through BASF-supported programmes. This is only the beginning, as GAIN plans to improve the nutritional status of 1 billion people, of which 700 million are at risk of micronutrient deficiencies, over the period of 2002–2007, primarily through fortification of commonly available and consumed foods.

Beyond those already described, other examples of how BASF delivered assistance in the battle against malnutrition include:

- Kenya (Nairobi)—In a public-private partnership to improve productivity in maize farming in Kenya, BASF's agricultural department has developed technology that prevents striga (witchweed), a widespread parasitic weed that causes production losses of estimated €1.2 billion annually;
- Morocco (Rabat)—BASF, in cooperation with the government of Morocco and UNICEF, has assisted in the food fortification of sugar. The Company used its technical capacity and know-how to assist the local sugar industry in producing sugar that met the nutrient demand of the population; and
- Development of a field-testing kit—BASF developed a field-testing kit for vitamin A in flour fortification that allows public

interest organizations to test the contents of fortified foods.

It remains to be seen whether BASF and other companies engaged in this field can meet their commitments, especially in the long term. Although the Company set numerous precedents with regard to development and execution of projects with public and private partners, the challenge now will be to maintain this momentum.

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İpek Kağıt: From philanthropy to development

Ceyhun Gocenoglu*

Human rights issues addressed

- Health
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- Millennium Development Goals

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Abstract

According to data from the Turkish Ministry of Health, over the past ten years approximately 589,000 people in Turkey have contracted diseases such as typhoid fever, dysentery and jaundice that

could have been prevented through better personal hygiene.

With support from government agencies and health experts from academia, İpek Kağıt, a tissue paper company owned by the Eczacıbaşı Group, founded the Solo Primary School Personal Hygiene Education Project (Hygiene Education Project). This is a long-term project that coincides with İpek Kağıt's vision of healthier future generations and the Eczacıbaşı Group's vision of providing products and services that facilitate modern, high-quality and healthy lifestyles. The project aims to reach approximately 6,120,000 students in 8,430 primary schools over a period of 8.5 years, between 2002 and 2010.

As of January 2007, the Hygiene Education Project had been implemented in 5,043 primary schools throughout Turkey, carrying its message to nearly 4.3 million students. This case study explores an example of how a corporation, through a strategic partnership within its area of competence, can support and respect the protection of human rights (Global Compact Principle 1) and, more broadly, how it can address local development challenges and support UN goals such as the Millennium Development Goals (the Global Compact's second objective).¹

Company profile

Founded in 1969, İpek Kağıt is a 50/50 joint venture between the Eczacıbaşı Group and Georgia-Pacific. İpek Kağıt Tissue Paper, the focus of this study, is one of the 38 companies in the Eczacıbaşı Group. Eczacıbaşı is a leading Turkish industrial group that employs more than 8,500 people and had combined net revenues of \$2.8 billion in 2006. Headquartered in Atlanta, Georgia, USA, Georgia-Pacific is one of the world's leading manufacturers and marketers of tissue, packaging, paper, pulp, and building products and related chemicals. Georgia-Pacific employs approximately 50,000 people at more than 300 locations in North America, South America and Europe.

The Eczacıbaşı Group was founded in 1942 by Dr. Nejat F. Eczacıbaşı. It operates in six business areas: pharmaceuticals, building materials, consumer products, finance, information technology and welding technology. Headquartered in Istanbul, Turkey, the Group has extensive distribution coverage, reaching over 90% of the nation's sales points. The Group has made international partnership a central component of its growth strategy and has nine international joint ventures and around 50 cooperation agreements with international parties. CSR is an important part of the Eczacıbaşı Group's corporate culture, primarily reflecting itself in the Group's many philanthropic

* Ceyhun Gocenoglu holds a Master of Science degree in Corporate Governance and Ethics. He was the founding General Secretary of the CSR Association in Turkey for two years. He has been an advocate of CSR issues for the past five years, presenting papers and giving training on CSR issues. Peer review of this case study was provided by Mr. Hansin Dogan, the Private Sector Programme Manager of UNDP Turkey. The case study was researched and written without the financial support of İpek Kağıt. The complete version of this case study, including additional annexes, is available on the UN Global Compact website: <http://www.unglobalcompact.org>.

activities and community involvement programmes. The Group is a major sponsor of cultural events in Turkey through active involvement in the Istanbul Foundation for Culture and Art and the Istanbul Museum of Modern Art. Education has also been a priority for the Eczacıbaşı Group: The company contributes regularly to the Turkish Foundation of Education Volunteers.

İpek Kağıt, which shares the business strategy and corporate culture of the Eczacıbaşı Group, manufactures a wide range of products, including bathroom tissue, kitchen towels, napkins, handkerchiefs and facial tissue. İpek Kağıt exports to markets in Europe, the Middle East, Central Asia and the Caucasus. In 2006, it achieved net sales of \$167 million. As the leader of the tissue paper market in Turkey, İpek Kağıt has seen its flagship brand SELPAK become synonymous with the word “tissue paper” for many native Turkish speakers. The company aims to develop new sales channels and start a \$125 million investment in the coming three years.

Statement of the problem

According to the Turkish Ministry of Health, over the last 10 years approximately 589,000 people in Turkey have suffered from diseases such as typhoid fever, dysentery and jaundice. These are diseases that in most instances could have been prevented by good personal hygiene, such as using toilet paper and hand-washing. While the tissue paper consumption rate in Western European countries is 15 kg per capita, tissue paper consumption in Turkey is exceptionally low, with a rate of 1.3 kg per capita. Toilet paper has an equally low level of consumption. The average annual consumption of toilet paper in Turkey is 580 grams per capita, approximately 8% of the European average of 6.9 kg. Moreover, while only half of all families in urban areas use toilet paper, the number falls to one third in rural areas. Research conducted by the Faculty of Medicine of Dokuz

Eylül University in 1997 shows that the usage of toilet paper greatly increases toilet hygiene when supported by hand-washing.²

Within this context, the main goal of the Solo³ Primary School Personal Hygiene Education Project is to increase primary school children’s knowledge about general and personal hygiene principles in order to prevent diseases caused by poor personal hygiene.

Linkage with human rights and the Millennium Development Goals

Efforts to improve public health, including tackling factors that contribute to disease, help respect and support human rights. Indeed, health has been recognized as a fundamental human right indispensable to the exercise of other human rights.⁴ The right of everyone to the highest attainable standard of physical and mental health is enshrined in international human rights instruments (for example, Article 12 of the International Covenant on Economic, Social and Cultural Rights, and Article 24 of the Convention on the Rights of the Child). Government responsibilities with respect to the right to health include ensuring equal access to information about preventive and health-promoting practices and support for families and communities in implementing these practices. The goal of improving health is also recognized as the sixth Millennium Development Goal: Combat HIV/AIDS, malaria and other diseases.

Identification of the drivers

İpek Kağıt has been a supplier and marketer of tissue paper since its establishment in 1969 and is the principal actor in the Turkish tissue paper market. İpek Kağıt regularly conducts consumer research, which it uses to track changes in consumer expectations and plan its marketing activities. Qualitative research using focus group methodology carried out by an external research

company—Bileşim International Research and Consultancy—in Gaziantep and Kayseri in November 2000 revealed why people do not use toilet paper:

1. economic reasons
2. habits shaped by cultural reasons
3. lack of education from their parents about personal toilet hygiene

People who began using toilet paper cited the following reasons for changing their habit:

1. sample distribution and commercial advertising
2. the health of their children

Overall, the results indicated that more people in Turkey would use toilet paper if they knew how to use it and believed that others were using it as well.

To find sources of information in Turkey about using toilet paper, İpek Kağıt scanned the curriculum of the “Life Skills” course taught at the primary school level and compared course materials and methods in European Union (EU) countries. These studies showed that in EU countries, personal hygiene principles are taught through songs and games in kindergarten. In Turkey, however, there is a low rate of attendance at kindergarten and the topic is taught only in the third grade.

Apart from improving health, increasing awareness and knowledge of hygiene principles is also expected to lead to an increase in toilet paper consumption in Turkey and thus contribute to the long-term sustainability of İpek Kağıt. In this way, the Hygiene Education Project provides mutual benefit for all parties.

In addition to the business case for the project, Eczacıbaşı Group has a strong tradition of social investment in the establishment and support of non-profit institutions in culture and the arts, education, sports, scientific research and public policy. This tradition reflects the personal vision of the founder of the Eczacıbaşı Group, Dr. Nejat Eczacıbaşı, who firmly believed that every investor had a duty to use a

portion of the wealth generated by his or her business to improve the community.

Key internal and external players

İpek Kağıt is both the developer and sponsor of the Hygiene Education Project. In this respect, the main responsibility of the company is to create the project team with clear roles and responsibilities and provide the required finances, as stated in detail in the project financing section below. İpek Kağıt's partners include the Faculty of Medicine of Dokuz Eylül University, which provides necessary research, and the Turkish Ministry of Education, which provides governmental approval. MPR, one of the pre-eminent public relations companies in Turkey, provided consultancy assistance for the project planning phase carried out in 2002, including a pilot project in Istanbul, and for the implementation of the project.

During the implementation process links with other organizations were also been established. For example, the company provided "training for trainers" to AÇEV⁵ members, who implemented the project in Diyarbakir. In this city in southeast Turkey, AÇEV redirected the project to focus on a different target group, mothers, thereby creating a multiplier effect for the programme. In 2004, Eczacıbaşı Pharmaceuticals Manufacturing, another Eczacıbaşı company, implemented the project in its local community of Lüleburgaz, a town in northwest Turkey, reaching approximately 15,000 students. For this project, İpek Kağıt provided an experienced trainer and the learning materials for the hygiene classes.

Description of the project implementation process

In October 2002, İpek Kağıt initiated the project implementation process with MPR. Together, they contacted their main project partners: health education faculties around Turkey, such as Marmara University in Istanbul and the Ministry of Education and its director-

ates in 26 cities around Turkey. Then they assigned each of them a significant role. These partners carried out three vital steps that have shaped the project cycle and made it one of the central components of the company's business practice since 2002.

The first step was to design the format and tools of the hygiene classes. These hygiene classes—the main activity of the project—take around 15 minutes, during which time the trainers explain the steps of the sanitary and the hand-cleaning processes. MPR and İpek Kağıt formulated the hygiene classes with the support of academics from health education faculties. The final design of the materials (cartoons, course boards and brochures) were prepared by the consultancy company with the input of trainers selected from health faculties.

Government agencies have provided legitimacy to the project by presenting İpek Kağıt with an approval letter through the local governor before each course. For its part, İpek Kağıt sends progress reports to the Ministry of Education after each course has been implemented. Although these bureaucratic processes have sometimes been seen as unnecessarily increasing the workload of the project, they have created a channel for sustained governmental involvement, thus establishing a social audit mechanism. Since March 2006, the project's printed materials include the logos of the Ministry of Education and the Directory of National Education as well as the Solo logo, an important step that has given the legitimacy of the public authorities to the project's aim of working for the greater benefit of society.

The second step was the preparation process before each course. This included the selection and training of trainers, and the pilot implementation, which was done in order to check the effectiveness of the preparation process. Once this cycle was completed, the trainers conducted the targeted series of hygiene classes for that phase of the project. During the period September 2002 (when the pilot programme com-

menced) to December 2006, this process has been carried out nine times to facilitate classes in 5,043 primary schools in 26 cities, which represents 61% of all primary schools and 57% of all primary school students in Turkey.

Finally, after implementation of the project in each city/region was completed, İpek Kağıt organized an evaluation meeting to measure and monitor the effectiveness of the project and sent an official report to the Ministry of Education to inform them of the results. The distribution of free samples was organized to sustain the learning processes of students. Between October and December 2005, trainers distributed samples after the courses in Malatya. Subsequently, they visited 310 homes to see if children shared the content of the programme and the free samples with their families. Initially, it appeared that 80% of the students had mentioned the project to their mothers, and nearly half of these students had also shared the brochures and the importance of toilet paper usage for personal hygiene. The company also organized public relations activities, enabling it to reach 59.6 million people through 149 appearances in the media.⁶

Project finances

İpek Kağıt provided funding for the entire budget of the Hygiene Education Project, which totaled \$1,296,000 between 2002 and 2006. Most of these costs were related to training, evaluation meetings and the printing of materials. The cost of the training includes the fees of trainers, many of whom are new graduates of health education faculties. Between 2002 and 2006, the project employed a total of 217 trainers during the "hygiene class" phase of execution. Trainers represented 32% of total costs, and İpek Kağıt will add another 30 trainers per year in the coming years. As part of their job description, four existing İpek Kağıt employees, including the marketing manager, worked on the project. The cost of this staff time is not included in the project budget.

The tables in Annex 1 (of the version of this case study on the Global Compact website) show annual costs and student coverage over the period 2002–2006. In analyzing these tables, we observed interesting results. First, although there seems to be a decrease in the total budget from 2004 to 2005, average costs per student increase. This result reflects the focus of the project in 2005 on smaller cities, which initially increase project costs per student. Even in 2005, the average cost per student was only 41 cents—an extremely low cost for eliminating illnesses caused by poor hygiene.

Monitoring and evaluation

The monitoring and evaluation processes have two parts. The first evaluation process involves the courses and student responses. Before each course, trainers give students a pre-test to identify their knowledge level about personal hygiene. At the end of each course, students take a post-test to see how much they learned about maintaining personal hygiene and inhibiting microbes that cause diseases. These tests show that, on average, 61% of the students who demonstrate an incorrect or insufficient understanding about personal hygiene in the pre-test have a significantly better understanding after the class.

The second evaluation process looks at how the project is implemented. İpek Kağıt organizes at least two evaluation meetings with trainers during each programme, where they share their experiences and ideas. These meetings have led İpek Kağıt to change the course of the hygiene classes from using an individual trainer to using a computer-based system, where the content of the hygiene classes will be presented by a trainer with the support of a DVD. It has also decided to amend the content of the pre- and post-tests in 2007.

Challenges, perceptions and responses

Interaction between partners and society

The project is a multi-partner project, with the company acting as a leader of a consortium of partners, including universities, government agencies and NGOs. Rosabeth Kanter has observed that successful private-public partnerships possess five characteristics.⁷ These are (1) a business agenda, (2) strong partners committed to change investment by both parties, (3) roots in the user community, (4) links to other organizations, and (5) commitment to sustain and replicate results.

Applying these criteria, the Hygiene Education Project is a good example of a successful private-public partnership. The partners of the project have made a unique contribution to affect a change process. Research by Dokuz Eylül University supports the assertion that both using toilet paper and hand-washing are necessary in proper toilet hygiene. Graduates from health education faculties, health faculties and universities around Turkey have also participated in the project as trainers.

Over the last three years, the Turkish Ministry of Education has built up a good record of launching educational campaigns supported by the private sector and local communities. Some other examples include *100% Support for Education*; *Girls, Let's Go to School*; and *Support Computer-Based Education*. The success of these campaigns, which have raised large amounts of supplementary funds for the education system in Turkey, largely derives from the fact that Turkish society sees education as a priority for its children.⁸ This fact encourages both corporate and individual philanthropic support.

In the case of İpek Kağıt, we can see the same pattern of support but with a different model: the partnership model, in which İpek Kağıt works with a number of stakeholder groups, including

NGOs and government agencies. One of the successes of the project is its engagement of government agencies and local primary schools. The Elazığ Doğukent Primary School even published the event on their school website. More recently, the protocol signed between the Turkish Ministry of Education and İpek Kağıt created an environment that allowed the company to engage better with local primary schools. This engagement differentiates this educational project from others, as the company provides not only financial support but also the educational content.

Although there has been some employee turnover within the partner organizations, the project has never been interrupted by these changes. This reflects the commitment that the partners have to continuing the project.

İpek Kağıt has ensured that the brand and company logos are shown to the young students only once during the lectures. This indicates that the main motivation of the company is to create awareness about toilet hygiene rather than advertize its brand.

Result: Improved hygiene

Since 2002, through a continuous cycle of implementation with the participation of 217 trainers and the involvement of stakeholders, the Hygiene Education Project has reached 4.3 million students in 5,043 primary schools in 26 cities around Turkey. The project has increased students' awareness of and knowledge about general and personal hygiene principles, as proven by post-course testing and sampling research.

Result: Improved business

There are many factors that affect sales, such as advertisements and price and product placement. Data from AC Nielsen, an independent research company, shows that the tissue paper market in Turkey has grown very rapidly between 2002 and 2006. This data suggests that the project might have contributed to the overall increase in the Turkish tissue paper market from

2002 to 2006, which grew 80% during that period. We must also note, however, that growth has also been spurred by marketing activities, such as promotion, advertizing and pricing.

The project has also generated further positive results for the company by motivating its employees. “I was involved in the project implementation in Erzurum during my first month of employment at İpek Kağıt, and it gave me moral strength to see that I was not just working for a company with simple business goals,” says Seda Sicimoğlu, an assistant product manager. Reaching out to 59.6 million people through 149 appearances in the media,⁹ the project has improved public relations and the company’s corporate image.

Finally, the project has also won the company international recognition. The company was one of ten businesses selected for the 2006 World Business Awards in support of the Millennium Development Goals. The nominations were assessed by an international selection panel, founded by IBLF, ICC and UNDP, drawn from business, labour, research and academic organizations, environmental groups and the United Nations. The award recognized the project as one of ten showcase projects worldwide that is contributing to the achievement of the UN Millennium Development Goals.¹⁰

Conclusion

Many anti-CSR activists are skeptical about corporate behaviour regarding investment in public initiatives and programmes, since corporations are not elected as representative bodies. The project provides a forceful rebuttal to this argument. By successfully improving hygiene through cooperation with local government agencies, NGOs and the Ministry of Education, the project shows that corporate support of human rights can be legitimate, effective and achievable.

Internally, the project had created a channel for İpek Kağıt to structure a new business strategy with other stakeholders, such as universities and government agencies. The strategy has proven itself

financially and is fully supported by the General Manager of İpek Kağıt, Baki Gökçümen, who says, “The budget of this project is the last cost that we may economize on.”

This case study has offered a concrete example of the business case for human rights and how there can be business opportunities in promoting human rights. İpek Kağıt’s increasing profits prove that supporting human rights and running a successful business need not be mutually exclusive, and that it may, in fact, increase profits while also improving health.

Endnotes

- 1 The second objective of the UN Global Compact encourages participants to engage in partnership projects in support of global development goals. By taking a principle-based approach to business and engaging in projects that also have a positive developmental impact, companies can help to accelerate progress toward a more sustainable and inclusive global economy. Companies have a stake in contributing to development, and partnership projects can be viewed as a practical manifestation of a strong corporate commitment to the Global Compact and its objectives. See <http://www.unglobalcompact.org/Issues/partnerships/index.html>
- 2 Research done for İpek Kağıt–Dokuz Eylül University: “Research of the effects of using toilet paper on hand hygiene.”
- 3 Solo is the product brand of İpek Kağıt.
- 4 Committee on Economic, Social & Cultural Rights, General Comment 14, the Right to the Highest Attainable Standard of Health (Article 12), Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social and Cultural Rights, 22nd session, Geneva, 25 April–12 May 2000, E/C.12/2000/4, CESCR.
- 5 AÇEV, the Mother Child Education Foundation, has strongly advocated educating mothers.
- 6 Report numbers from Ajans Press, a leading media monitoring company.
- 7 Kanter, Rosabeth Ross, Harvard Business Review on Corporate Responsibility, “From Spare Change to Real Change: The Social Sector as Beta Site for Business Innovation,” (2003) 189-213.
- 8 Research of Akademetre, “Sponsorships in Turkey 2006.”

9 Report numbers by Ajans Press, a leading media monitoring company.

10 A course of the project is available at <http://www.iccwbo.org/uploadedFiles/WBA/solo.pdf>.

Generation III: A new era in NIKE's CSR strategy

Parastou Youssefi*

Human rights issues addressed

- Fair labour practices
- Forced labour
- Freedom of association/collective bargaining
- Occupational health and safety
- Supply chain
- Sphere of influence

Human rights management practices discussed

- Fair labour practices
- Forced labour
- Freedom of association/collective bargaining
- Occupational health and safety
- Supply chain
- Sphere of influence

Human rights standards, tools and initiatives mentioned (beyond the UN Global Compact)

- CERES
- Global Reporting Initiative
- Multi-Fiber Agreement
- Fair Labor Association

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Factory ownership and accountability

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The road ahead

Abstract

This case examines NIKE's efforts to improve working conditions in its operations and sphere of influence.

Working conditions are both a human rights and labour issue addressed by both international human rights and labour instruments. For example, Article 23

of the Universal Declaration of Human Rights speaks of just and favourable conditions of work, non-discrimination, just and favourable remuneration, and freedom of association.

In February 2007, NIKE announced its strategy to grow its revenue to \$23 billion by FY11, up from \$15 billion in FY06. A critical component to this growth strategy is improving working conditions for NIKE workers and workers in its supply chain through disciplined operations management. Known as "Generation III," this compliance strategy employs disciplined operations management driven by lean manufacturing practices, materials consolidation, style and SKU productivity, and gaining supply chain efficiencies through human resource management.

NIKE views this strategy not only as a driver for business excellence, but also as a driver for compliance in its contracted supply chain. Its measurement is known as "ROI2" (Return on Investment Squared), in which sustainability and compliance are a source of profitable growth and innovation for the company. By identifying and addressing the root causes of non-com-

pliance, NIKE believes this will improve working conditions and will potentially improve business as well.

Company profile

NIKE Inc. is a major American athletic footwear, apparel and sporting equipment company with revenues of \$15 billion in FY06.¹ Headquartered in Beaverton, Oregon, NIKE employs approximately 28,000 people in over 160 countries. Its subsidiaries include Cole Haan, Converse, Hurley International, and Exeter Brands Group.

NIKE contracts most of its production to factories overseas. Its business model was developed by its founder, Phil Knight, who saw that NIKE could outsource shoe production to lower-cost Japanese producers, as was being done in the US consumer appliance and electronics markets.² When costs increased in Japan in the 1970s, NIKE moved its production to suppliers in Korea and Taiwan. When Korea and Taiwan began to develop economically and costs began to rise, NIKE's lead suppliers relocated some of their operations to other, lower-cost countries such as Indonesia, China, Thailand and Vietnam.³

* Parastou Youssefi was a graduate student and Reynolds Foundation Fellow at the Kennedy School of Government at Harvard University at the time of writing this case study. No funding was received from NIKE for its research and writing. Peer review of the case study was provided by Anthony Ewing, Columbia Law School. The complete version of this case study, including references, is available on the UN Global Compact website: <http://www.unglobalcompact.org>.

Currently, NIKE has 28,000 employees, in addition to the 770,000 workers employed in over 680 NIKE-contracted factories across 49 countries.⁴ The majority of these workers are women between 18 and 24 years of age. The majority of NIKE footwear is manufactured in China (35%); Vietnam (29%); Indonesia (21%); and Thailand (13%).⁵ Independent contract manufacturers in 49 countries produce all NIKE branded apparel for sale to the international market as well as the US. Most of this apparel production occurs in China, Indonesia, Malaysia, Thailand and Turkey. NIKE's largest single apparel factory accounted for approximately 5% of total FY06 apparel production.⁶

Monitoring human rights and labour conditions

While NIKE's differentiation strategy of outsourcing and intense marketing has allowed it to topple competitors, part of this business model has also passed on to suppliers the pressure of keeping costs low. Some critics, such as journalist and activist Naomi Klein, have argued that labour reform within NIKE is not possible since it is their business model itself that is inherently flawed.⁷ In 2000, Klein published *No Logo*, an international bestseller that criticized America's consumer brand culture and the corporations behind the mass marketing.⁸ She was particularly critical of NIKE, arguing that it is guilty of exploiting workers in the world's poorest countries in pursuit of greater profits. On 8 March 2000, NIKE responded to Klein's criticisms, offering a point-by-point rebuttal to many of the claims in the book.⁹ While NIKE acknowledged the incidents occurring in the early 1990s, it argued that Klein had failed to recognize NIKE's progress and its "industry-first" labour initiatives. Indeed others, such as *The Economist*, argued that NIKE's business model was similar to almost all consumer product brands and that reform was possible, as NIKE had already made much headway in the last eight years.

Indeed, NIKE has come a long way from its scandal-ridden days of social irresponsibility in the international garment and footwear industry. After a series of well-publicized labour incidents with underage workers in Indonesian plants, allegations of forced overtime in China, and dangerous working conditions in Vietnam during the 1980s and 1990s,¹⁰ NIKE became "synonymous with slave wages, forced overtime, and arbitrary abuse," as conceded by Knight.¹¹ NIKE's initial reaction was to be defensive, arguing that these were the practices of its suppliers who were contractors and not its own employees. Yet as the criticism increased and NIKE's image began to suffer, NIKE executives knew they had to make some changes.

Adopting human rights and labour principles

NIKE developed a stringent Code of Conduct ("the Code") in January 1992, which requires factories to provide each worker at least the minimum wage and to keep a clear, written accounting record for every pay period; prohibits factory owners from deducting employee pay for disciplinary infractions; and strongly prohibits child labour. Key partnerships were made as well. NIKE endorsed the United Nations Global Compact Ten Principles in July 2000, as well as the CERES principles, and became an active supporter of the Global Reporting Initiative (GRI). NIKE termed this first phase of changes, between 1996 and 2000, as "Generation I."

In order to enforce the Code, NIKE developed comprehensive monitoring tools. Compliance specialists were hired, hundreds of factory audits were conducted, and relationships with multiple stakeholders were forged. In 2005, NIKE received much acclamation for being the first in the industry to voluntarily disclose the names and locations of active contract factories making its products.¹²

This second stage of NIKE's CSR journey, internally termed "Generation II," took place between 2001 and 2006.

However, NIKE was not sure if its strategy of monitoring for compliance was achieving the desired results. NIKE's own monitoring data revealed five major areas of non-compliance regarding labour standards in the apparel, equipment and footwear industries: absence of freedom of association and collective bargaining; harassment and abuse of workers; excessive hours of work; inaccurate or non-payment of wages; and environment, health and safety issues. The root causes of noncompliance typically emerge from national and international socio-political-economic conditions; factory management; and the buyers themselves.

We've come to realize that, while monitoring is crucial to measuring the performance of our suppliers, it doesn't per se lead to sustainable improvements," says Hannah Jones, NIKE Inc.'s Vice-President for Corporate Responsibility. "We still have the same core problems."¹³

NIKE's FY04 Corporate Responsibility Report underscores the limited capabilities of monitoring alone – 134 of the 497 factories (27%) producing NIKE apparel scored a "C" or "D" grade, poor scores indicating serious violations of its Code of Conduct.¹⁴ Currently, NIKE's goal is to move contract factories earning a "C" or "D" grade to a higher grade within three and six months, respectively. The goal is that there will be no "D" rated factories in the supply chain for more than six months. NIKE will work with the factory on the related issues and if progress is not made, NIKE will remove that factory from its list of approved factories. In the event that a factory is in clear violation of its Code of Conduct, NIKE will terminate its contract with the factory, as it did with Saga Sports in Sialkot, Pakistan, when it was found the factory was not adhering to the contractual agreement or the NIKE Code of Conduct in the stitching of NIKE branded soccer balls.¹⁵

Assessments by third parties

In July 2006, Richard Locke of the MIT Sloan School of Management released a

detailed study of factory audits of over 800 of NIKE's suppliers located in 51 different countries. Locke found that working conditions at NIKE's suppliers are mixed.¹⁶ While there was a slight improvement overall in factories' labour conditions over the course of two or three inspections, the vast majority of factories move in and out of compliance with NIKE's standards. Many suffer from persistent problems with wages, work hours and health and safety issues.

The Fair Labor Association (FLA), a multi-stakeholder coalition of companies, universities and NGOs, found similar results when it assessed NIKE's factories. NIKE is on the Board of Directors of the FLA, and the body monitors a sample of NIKE's factories annually. Recently, it shifted its focus from monitoring labour conditions and remediation (FLA 2.0) to developing capacity for compliance at the factory level (FLA 3.0). The FLA 3.0 programme seeks to identify the root causes of persistent non-compliance; it then pools constituent resources and works to increase collaboration amongst companies to address these issues.¹⁷ The FLA also creates opportunities for local stakeholders to play a role in identifying priority compliance issues, provides capacity-building services, and assesses suppliers' progress.¹⁸

With these results in mind, NIKE began to think critically about some of its own practices that could be contributing to poor working conditions.¹⁹ Over a period of several months, key departments came together to examine NIKE's business practices that could be affecting labour conditions.

Upstream focus

In June 2005, NIKE founded an Excessive Overtime Taskforce to identify internal practices that trigger excessive overtime after its FY04 report recognized excessive overtime hours to be one of the most pressing and pervasive issues in NIKE contract factories. Chaired by current CEO Mark

Parker, the Taskforce has identified 10 to 12 issues created by the buyer (NIKE), the country, and the contract factory that lead to overtime beyond the legal limits. The goal is to reduce the number of drivers in the supply chain that contribute to overtime, such as poor application of laws, flawed factory management approaches and faulty upstream performance of buyers. NIKE's Director of Compliance explains what NIKE asks its own staff to do to help accomplish this goal:

We are building the discipline to hit [the] required production dates, therefore making the right decisions at the right time that do not put too great of a burden on the manufacturing partner to meet their delivery dates.²⁰

While some excessive overtime can be attributed to the cyclical nature of the product cycle in apparel, brands can be more proactive in reducing the amount of overtime needed to meet product deadlines. Late design changes and poor forecasting by buyers put pressure on factory managers to meet deadlines. This can be exacerbated by poor production planning on the part of factory managers or by unexpected events such as power shortages or late material arrivals.

The Overtime Taskforce identified different areas that will both provide financial benefit to NIKE and control excessive overtime. These areas overlap with lean manufacturing processes to ensure cost control and improve labour standards:

1. SKU Productivity: Fewer styles decrease the complexity within the supply chain and can generate greater profitability as costs for extra materials and labour are reduced.
2. Materials Consolidation: This leads to less complexity and lower volume of diverse materials in order to ease pressure on the supply chain.
3. On-time Commercialization: Meeting product deadlines on

the buyer side is crucial so that added pressure to deliver to market on time is not placed on the factory. The factory will benefit as it will not have to pay extra costs of rushed air-freight to deliver to the buyer on time.

4. Forecast Accuracy: It is crucial to get close to the market in order to ensure accurate product forecasts. Inaccurate forecasts can cause significant and sudden increases or decreases in orders.
5. Sample Reduction: Reducing samples will positively impact the factory floor, as well as significantly reduce the amount of waste generated in the overall supply chain. The need for sales samples is part of the traditional business model, which is to be replaced with lean manufacturing practices.

Early warning systems are a potential solution to signal when time pressure would lead to excessive overtime. Better upstream education about time-pressure impacts for all the business units from strategic planning to product design can also prove effective. Downstream education is also important, as most contract factories underestimate the true cost of excessive overtime. Costs such as turnover rates, recruiting and training, and lost time due to accidents all add to the factory's expenses. It is critical that NIKE remain vigilant to eliminate excessive overtime in factories, since for most factories the profit motive will drive compliance.

This upstream focus identified areas for improvement that monitoring alone could not achieve. Seeking to develop these realizations into a strategy, NIKE began its third stage of CSR with Generation III.

Generation III strategy

Generation III resumes NIKE's efforts to improve working conditions in factories, yet with a new set of tools. Genera-

tions I and II (standards and monitoring, respectively) did not achieve the desired result of system change that NIKE and the industry had envisioned. Monitoring alone did not resolve some of the thorniest workers' rights issues; it needed to be complemented with an overarching strategy that met workers' needs without compromising profits. Thus, the vision behind Generation III is that of "responsible competitiveness," where NIKE's productivity is enhanced by monitoring and adjusting its economic, social and environmental performance.

With this new strategy of ROF² driving policy internally, NIKE is seeking to link compliance and financial performance. Sustainability and workers' rights are not to be just a responsibility for NIKE, but also a source of financial growth for the company. If policies aimed at improving workers' rights are not economically feasible, then they will fail to be sustainable or to produce systemic change.

Evaluation: The balanced scorecard

One critical example of NIKE's transition from Generation II to Generation III is the use of a balanced scorecard to measure performance. Prior to Generation III, NIKE focused on the monitoring ratings of the contract factories. Yet now, NIKE uses a balanced scorecard to track the measures identified as ROI²: quality, price, delivery and compliance. Developed by strategic planners and senior managers within manufacturing, operations and corporate responsibility, the compliance rating is based on the supplier factory's labour and ESH audit scores. Each one of the four metrics (quality, price, delivery, compliance) is worth 25% of the total balance scorecard. NIKE rewards the best performers with the best opportunities.

Lean manufacturing practices

Aligning sustainable strategies to NIKE's business strategy will be achieved by re-focusing NIKE's manufacturing model. In addition to the balanced scorecard, some key features of this realignment are:

Eliminating waste

NIKE employs lean manufacturing practices in order to eliminate waste and reduce costs, while simultaneously seeking to improve labour conditions in its supply chain. Lean manufacturing is a management philosophy that focuses on reducing different forms of waste to improve aspects of the business that customers value, such as transportation, inventory, motion, waiting time, over-production, processing, and defective products (for example, scrap materials). By eliminating waste, especially material and lost time, quality is improved and production time and costs are reduced.

NIKE officials believe this manufacturing model will allow NIKE to get closer to the market in order to understand what its consumers want. By better determining consumer demand, SKU management and productivity will improve, and manufacturing partners, from the design of the product to the final sale, will become better aligned.

We live in a world where the consumer decides when they want to buy. The footwear and apparel industry is driven by consumer buying habits, therefore there are going to be seasonal spikes. What we are truly doing is working to build capacity planning capabilities to ensure, to the best of our abilities, that we are not overbooking our manufacturing partners. The closer that we get to understanding the market, the better and more accurate the information we are putting into the system than in the past.

In the long-term, NIKE seeks to align factory human resource management (HRM) with lean manufacturing concepts driven by the manufacturing units. Key characteristics of this alignment will include freedom of association for workers and productivity-based wage improvements.

NIKE's logic presumes that a key potential benefit of lean manufacturing is a higher-skilled, higher-paid workforce, since the workers will be trained to perform multiple tasks and will increase

their productivity. As efficiency and quality improve, so do productivity and profitability, and these gains are shared with workers who will now have higher skill sets and more value in the market.

NIKE admits that a shift to lean manufacturing does not necessarily guarantee an increase in real wages. Other factors such as the costs of manufacturing (e.g., petroleum or cotton), inconsistent sale prices to buyers, and the assumption that buyers will hold prices steady can all affect wages. In FY08, NIKE plans to evaluate current wage levels at selected contract factories that have implemented lean manufacturing to determine the impact of productivity on wages, build a set of measures for factories, and identify best practices to promote ROI² with other factories.

Protecting the right to freedom of association is one of the most challenging issues NIKE (and the rest of the industry) faces. Better HRM will involve establishing education programmes for contract factory workers and managers and setting up grievance systems to address workers' grievances.

NIKE hopes to have 90% of its footwear production come from lean lines by the end of FY11. In apparel production, 18 contract factories (comprising nearly half the volume of worldwide NIKE apparel production) have begun lean training, and another six will begin in FY08. Over time, it is believed these enhanced operational practices will translate into reduced costs and thus a better price-value to the consumer. This will lead to the potential price-value benefits of better wages for workers and investments in working conditions.

Materials consolidation

In addition to enhancing operational practices such as meeting product process deadlines and better planning, NIKE will work to reduce the materials palette. With better control of the material palette on the front end, NIKE can better plan with its material vendors, thus having the required materials delivered on time during the production process. This

will elevate product delivery performance to the retail customer. In addition, consolidating materials will work indirectly to elevate workplace practices through reasonable hours of work.

SKU and style productivity

The CSR, operations and manufacturing leadership seek to raise awareness of the correlation between proliferation of product styles and declining factory performance on quality, delivery and compliance. With fewer styles there will be greater returns for both business performance and working conditions. NIKE's CFO Don Blair explains:

One of the great strengths of our company is our ability to create compelling innovative products that excite consumers. But there can be too much of a good thing. Each quarter we sell about 13,000 different styles of footwear and apparel and because of our high rate of seasonal turnover, we sell tens of thousands of different styles every year. And there are many additional styles that make it part way through the process, but don't end up in the final line that goes to market.

Each one of these tens of thousands of styles drives costs; costs for design, development, sampling, transportation, storage and sales. For footwear 95% of our revenue comes from about 35% of our styles and for apparel the figure is about 40%.²¹

In an effort to drive down costs and better focus on consumer demand, NIKE will focus its competitive strategy on customization and adaptable products like "NIKE Plus." Good for business and revenue growth, such a strategy also works to reduce the possibility of excessive overtime by reducing the number of styles available and requiring advanced planning. By squeezing more value out of its operational and management practices, NIKE will not only improve profitability but also potentially improve labour conditions.

Factory ownership and accountability

Traditional tariff and quota systems under the Multi-Fiber Agreement have led many in the industry to have a short-term view of the relationship between buyer and supplier. This in turn leads to a short-term view of suppliers' relationships with their workers. NIKE seeks to move toward lean manufacturing by maintaining a few strong, long-term strategic partnerships with suppliers instead of relying on many suppliers during short-term stints. Remaining loyal to a factory that meets labour standards can prove to be more profitable in the long term, since moving sourcing to new factories with perceived lower costs means additional time and resources necessary to bring them up to compliance levels.

NIKE country teams, which are educated on CSR standards by the Compliance department at Headquarters, will then in turn educate local manufacturers to apply the same standards used by global product engines. The Compliance team applies the same New Source Approval Process used for global suppliers to manage the quality and number of suppliers engaged by any specific country business unit.

NIKE will reorganize its relationship with its strategic manufacturing partners. The Compliance department will focus its energy and capacity-building efforts on the 20% of suppliers that account for 80% of the long-term and strategic impact to NIKE. These "focus factories" are long-term NIKE partners who receive more than 25% of their business from NIKE, and who have more than 400 workers each. Each focus factory will have an activity plan co-developed by the factory, the Compliance department and the NIKE business unit. In total there are 112 focus factories.

These key suppliers are located across ten "focus countries": China, Indonesia, Vietnam, Thailand, India, Turkey, Morocco, Mexico, Honduras and Brazil. These ten countries hold the largest share of NIKE production, and their specific

levels of potential risk have been identified. Focusing on the performance of this 20% group allows NIKE to better manage the performance and capacity-building efforts within these factories.

Collaboration amongst brands

Collaboration amongst brands is crucial for improving labour conditions in factories across the board in the apparel and footwear industry. Currently, NIKE is working on collaborative efforts with other brands in its sector. Since the majority of NIKE's manufacturing partners are solely aligned with NIKE on the footwear side, NIKE is in discussion with other brands on the apparel side such as The Gap Inc., Levi's, and Timberland to collaborate on auditing processes and procedures and the remediation process.

We all work with the same factories and we all have the same problems in our factories, so we should be solving these problems together, because these are real issues that are beyond our companies. These (labour and compliance) issues affect the livelihoods of the people who make our products.²²

Collaboration amongst the brands would lead to greater efficiency in the factories. A typical factory that produces goods for some of the leading brands is subject to audits from each of the brands. Not only is this hugely inefficient, both for the factory and the brands, but it can also support corruption at the factory level. There is a growing crop of CSR consultants in China who are hired by factory managers to help them pass the audits, sometimes by creating double sets of accounting books or finding other creative ways to fool auditors. If the brands unite their efforts and do one audit for every three, for example, this provides incentive for the factory to keep up to code so as to face fewer audits. This same logic led NIKE to disclose its factory lists in 2004, in the hope that the other brands would follow suit and propel an organic movement amongst the brands. Puma and Timberland have already followed suit.

In addition to collaboration around auditing, NIKE hopes to align with other brands to provide training opportunities to factory managers.

We want to employ best practice with HR management. We will first implement this with our strategic partners and from there with all our manufacturing partners. With key brands, we hope to share our facilities to ensure that they back the implementation process. So we are definitely sharing as these programmes are developed, and with that we want to continue involving external stakeholders in capacity building roles.—²³

Beyond working with other brands to improve labour conditions in factories, NIKE is working with the International Labour Organization, the Fair Labor Association, NGOs and governments to develop industry-wide change. NIKE is involved in the JO-IN Project (Joint Initiative on Corporate Accountability and Workers Rights) in Turkey, which involves six major MSIs to test common codes and monitoring programmes.²⁴ Seven multinational brands joined the initiative for the purpose of conducting the trial project in Turkey—NIKE, The Gap Inc., Adidas, Hess Natur, Marks and Spencer, Patagonia and Puma.

NIKE also supports the ILO Better Factories Cambodia project and subscribes to its world-first information management system (IMS), a computerized system for monitoring and reporting on working conditions.²⁵ NIKE is one of about 20 international buyers who has committed to source garments from Cambodia, which is seen as crucial for the survival and growth of the country's garment industry, and has helped establish an international buyers' forum to enable buyers to speak to other stakeholders as one voice and promote Cambodia to other garment buyers based on the country's good record on labour standards.

NIKE seeks to move beyond brand collaboration on identifying shared contract factories and developing common code application standards, audit tools and methodologies. Without adding additional cost,

this is intended to lead to improved quality of factory performance data and more efficient monitoring and data gathering.

The road ahead

The carrot-stick approach of monitoring for compliance has proven for NIKE to be insufficient for tackling the most difficult labour and human rights supply chain issues. NIKE hopes that Generation III, with its ROI2 strategy to align business and social returns in its financial statements, will help to address many of the most challenging labour problems that have not been resolved by monitoring and reporting. NIKE's CSR journey has focused on three key areas: affecting systemic change for workers in the apparel, footwear and sport equipment industry; implementing sustainable business models; and using sport as a tool for social change. However, Generation III may prove to be NIKE's most successful step yet.

Endnotes

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- 2 "International Sourcing in Footwear: NIKE and Reebok," HBS Case 9-394-189 (1994).
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- 5 SEC Form 10-K, July 28, 2006.
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- 8 Ibid.
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 - 17 There are currently 20 leading brand-name companies participating in the Fair Labor Association. These are Adidas AG, Asics, Eddie Bauer, Drew Pearson Marketing, GEAR for Sports, Gildan Activewear, H&M, Liz Claiborne, Mountain Equipment Co-op \(MEC\), New Era Cap, Nordstrom, NIKE, Outdoor Cap, Patagonia, Phillips-Van Heusen, PUMA, Reebok, Top of the World, Twins Enterprise, and Zephyr Graf-X. See <http://www.fairlabor.org/all/about/index.html>.
 - 18 See <http://www.fairlabor.org/all/resources/FLA3.0/index.html#events>.
 - 19 "We've come to the conclusion that we can monitor until we're blue in the face, but it's just policing. It's not getting to some of the root problems. And some of those root problems are actually affected by what NIKE does." Charles Gatchell, Strategic Planning Manager, Corporate Responsibility, NIKE. Interview with author, January 2007.
 - 20 Charlie Brown, Director of Compliance, NIKE. Interview with author, January 2007.
 - 21 Investors Meeting, "The Consumer Decides: NIKE Focuses Competitive Strategy on Customization and Creating Personal Consumer Experiences, Data about the NIKE Plus Personalization System," \[http://mass-customization.blogs.com/mass_customization_open_i/2007/02/the_consumer_de.html\]\(http://mass-customization.blogs.com/mass_customization_open_i/2007/02/the_consumer_de.html\).
 - 22 Investors Meeting, "The Consumer Decides: NIKE Focuses Competitive Strategy on Customization and Creating Personal Consumer Experiences, Data about the NIKE Plus Personalization System," \[http://mass-customization.blogs.com/mass_customization_open_i/2007/02/the_consumer_de.html\]\(http://mass-customization.blogs.com/mass_customization_open_i/2007/02/the_consumer_de.html\).
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 - 24 See <http://www.jo-in.org>.
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Understanding the implications of the Global Compact Human Rights Principles for petrochemical investment activities in developing countries: A case study of Sasol

Jonathon Hanks*

Human rights issues addressed

- Complicity
- Diversity and/or non-discrimination in employment
- HIV/AIDS
- Privacy
- Resettlement and compensation of affected communities
- Social investment and community development
- Sphere of influence

Human rights management practices discussed

- Getting started
- Strategy
- Policy
- Processes and procedures
- Communications
- Training
- Measuring impact and auditing

Human rights standards, tools and initiatives mentioned (beyond the UN Global Compact)

- International Bill of Human Rights
- Danish Institute for Human Rights Compliance Assessment
- Business and human rights: A geography of corporate risk
- Equator principles
- World Bank policies and procedures
- OHCHR, Briefing Paper, The Global Compact and Human Rights: Understanding Sphere of Influence and Complicity

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The Mozambique Natural Gas Project: Selected human rights experience

Sasol and human rights: Elements of a more systematic approach

Concluding comments

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Abstract

The aim of this case study is to identify

some of the critical dilemmas that a large resources and petrochemicals company might face when it considers investing in countries where there may be concerns relating to human rights abuses.

* This case study was researched and written by Jonathon Hanks, a Visiting Senior Lecturer at the University of Cape Town. Peer review of this case study was provided by Dr. Ralph Hamann, University of Cape Town. At that time, he was associated with the Centre for Corporate Citizenship, University of South Africa. This case study was also presented and discussed in a multi-stakeholder setting at the Global Compact Learning Forum, which took place in Accra, Ghana, on 22–24 November 2006. Sasol covered costs for the time associated with the interviews and desk research for this study. Jonathon was a consultant to Sasol on other projects and has helped the company, for example, in its recent sustainable development reports, as well as in managing and facilitating its independent external stakeholder engagement processes. He has also worked as a consultant on various projects for the UN Global Compact Regional Focal Point (South Africa). The complete version of the case study, with additional annexes, is available on the Global Compact website at www.unglobalcompact.org.

and where it seeks to do so in a manner consistent with Principles 1 and 2 of the UN Global Compact (UNGC). Using Sasol—a South African-based multinational petrochemicals company—as the basis for the review, it analyses recent thinking and best practice regarding the interpretation and application of the UNGC principles. It identifies approaches for assessing the potential human rights violation/abuse risks of particular countries and for guiding investment decisions in these countries.

Sasol's experience with the Mozambique Natural Gas Project provides a broad background for this case study, with consideration given also to Sasol's current and proposed investments and other interests in countries such as Iran, China and Nigeria. Against this backdrop, the case study evaluates the nature and extent of Sasol's current policies, procedures and practices related to safeguarding and promoting human rights, comparing these with the experience and approach of other companies in similar sectors.

On the basis of a literature review and interviews with some of Sasol's internal and external stakeholders, the case study identifies some of the activities and dilemmas associated with developing and implementing policies and procedures consistent with the UNGC principles. In so doing, the case study seeks to contribute to an improved understanding of some of the issues associated with the interpretation and application of the UNGC principles, to identify some of the possible associated dilemmas, and to share experiences on the lessons learnt for traditional decision-making processes in the corporate sector.

Sasol recognizes that as it expands its operations into countries that have been the subject of criticism for their human rights records, and in light of the increasingly blurred dividing line between the responsibilities of companies and the responsibilities of host country governments, there is a need for more systematic management of human rights within the company. Five elements have been identified as key to Sasol's structured hu-

man rights risk management process:

- Providing human rights awareness and training programmes for specifically targeted staff, with the aim of increasing understanding of the nature of international human rights obligations, the risks and opportunities these rights present, and the human rights situation in countries in which the company has, or is planning, investments.
- Integrating human rights issues more formally in project and country risk assessments; in certain defined instances a country's human rights record will constitute a sufficient basis for choosing not to invest in that country.
- Ensuring further integration of human rights concerns in company policies and procedures, formalising lines of responsibility for human rights, providing for human rights in procurement and supplier audits, and developing appropriate security procedures, including screening and training of security staff.
- Ensuring appropriate consultation and communication on human rights issues, both internally and externally.
- Developing appropriate monitoring and assurance mechanisms, by making use, for example, of the Human Rights Compliance Assessment (HRCA).

Company profile

Sasol is an integrated oil and gas company with complementary interests in coal extraction, chemicals and the international development of synthetic-fuel ventures based on its proprietary Fischer-Tropsch (FT) technology. Formed in 1950, Sasol commenced FT-based production in 1955. They employ more than 30,000 people and remain one of South Africa's largest investors in capital projects and skills training. Sasol is listed on the Johannesburg Securities Exchange

in South Africa and the New York Stock Exchange in the USA.

Sasol mines coal in South Africa and converts this coal, along with Mozambican natural gas, into fuels and chemical feedstock through its FT technology. The company has significant chemical manufacturing and marketing operations in South Africa, Europe, the United States and Asia. Its chemical portfolios include monomers, polymers, solvents, comonomers, surfactants and their intermediates, waxes, phenolics, ammonia, fertilizers and commercial explosives.

In South Africa, Sasol refines imported oil into liquid fuels and retails liquid fuels and lubricants through Sasol convenience centres and Exel service stations. Sasol also wholesales fuels in South Africa and exports fuels to sub-Saharan Africa. The company produces gas in Mozambique for supply to customers and as feedstock for some of its South African fuel and chemical production. Sasol also produces oil in Gabon.

Sasol has recently embarked on an ambitious programme of international growth, with plans to roll out new gas-to-liquid (GTL) and coal-to-liquids (CTL) projects. In June 2006, Sasol's first international GTL plant, the US\$1 billion ORYX GTL joint venture, was inaugurated at Ras Laffan in Qatar. With a second GTL plant under construction in Nigeria, discussion under way regarding possible GTL ventures in Algeria and Australia, and feasibility studies of two CTL plants in China being conducted in the next decade, Sasol is set to become a more significant player in the global energy sector.

As part of its global growth strategy, the company has a 50:50 joint venture project with the National Petrochemical Company of Iran to develop new monomer and polymer production facilities at Bandar Assaluyeh in Iran. Sasol Polymers is also a significant partner in the Optimal Olefins and Petlin plants at Kertih, Malaysia.

Human rights and Sasol's global investment strategy

Stiaan Wandrag, Sasol's recently appointed corporate sustainable development manager, put down the first proofs of the company's 2006 sustainability report and looked out of his window at the Johannesburg skyline. With the sustainability report almost completed, he was looking forward to focusing his efforts on one of his other key responsibilities: ensuring effective implementation of Sasol's commitment to the principles of the UN Global Compact.

While he felt confident that Sasol had the resources, capacity and focus to address the labour and environmental principles of the UNGC, and believed that Sasol was doing an effective job in adhering to these principles, Stiaan was concerned as to whether the company had a sufficiently systematic approach to safeguarding and promoting human rights. With the company rapidly expanding its investments internationally, including into countries that had received negative press coverage on their performance on human rights issues, he recognized that this would become an increasingly material issue for Sasol.

On his desk, on a pile of newspaper clippings, lay a 160-page report by Human Rights Watch¹ that was highly critical of the activities of a South African listed gold mining company in the Democratic Republic of Congo. Next to this was a map of the world summarising the human rights risk profiles of different countries² on which he had circled countries – including China, India, Iran, Malaysia and Nigeria – in which Sasol had, or was planning, significant capital investments and technology deployments, in most instances in some form of partnership with government agencies from these countries.

Against the background of a shifting understanding of the role and responsibilities of companies in

upholding human rights, and Sasol's rapid programme of international investment, was the recent commitment of Sasol's new leadership team to promoting a culture and style of "values-driven leadership" as part of its vision of being a globally respected, world-class company.

Stiaan swivelled in his chair and looked at what he had written on the white board a few weeks earlier when he had first undertaken to review and assess Sasol's approach to safeguarding human rights. In a column on the left were the three tasks that he had set himself:

1. Understand the practical implications of Principles 1 and 2 of the Global Compact.
2. Review how these principles currently inform Sasol's foreign investment decisions.
3. Identify elements of a more systematic approach to safeguarding human rights.

In a column on the right – under the heading Potential Dilemmas – was a list of some of the comments and opinions that he had subsequently received in his discussions with colleagues:

It's difficult for us to identify the 'universally applicable' human rights that we should be safeguarding in different countries. Can we go around imposing Western values on everyone?"

Surely our responsibility is mainly to comply with the law of the country in which we invest; by doing that we respect the local social, cultural and economic context. Is it our job to tell the government what they should be doing?

It's better for us to be investing in countries rather than not investing in them. By being there, and implementing our human resource policies and practices, we expose others to our way of doing things. And of course we create jobs and promote economic development,

which has to be positive for human rights.

Human rights issues have not traditionally been considered as a potential "show-stopper" in our risk assessment processes. But perhaps they should be?

As he reflected on these dilemmas, he looked forward to the challenge of taking these issues further within the company. And he welcomed the chance of presenting and discussing his thoughts on these challenges and listening to the experiences of other companies at the imminent Global Compact Learning Forum in Ghana. Stiaan turned back to his computer and began to write up his findings of the last few weeks.

Understanding UNGC Principles 1 and 2 – Three critical questions

Principles 1 and 2 of the Global Compact call on businesses to support and respect the protection of *internationally proclaimed human rights* within their *sphere of influence* and to ensure that they are not *complicit* in human rights abuses. Reflecting on the possible practical implications of these principles, Stiaan identified three questions that he sought to answer:

- What "internationally proclaimed human rights" are relevant to Sasol's activities?
- What is the extent of Sasol's "sphere of influence"?
- Under what conditions might the company be deemed "complicit" in human rights abuses?

On the basis of his review of current literature on the subject, and following a series of interviews with relevant colleagues within Sasol, Stiaan identified what he saw as being the main implications – and some of the key internal dilemmas – associated with each of these questions. His perspective on the implications and dilemmas arising from these questions is provided below.

What are the “internationally proclaimed human rights”?

It's difficult for us to identify the “universally applicable” human rights that we should be safeguarding in different countries. Can we go around imposing Western values on everyone?

–Sasol Project Manager

The International Bill of Human Rights provides a useful starting point for understanding the nature of internationally proclaimed human rights.³ Some specific practical examples of these rights are provided in Box 1. Although governments have the primary responsibility to promote, protect and fulfil human rights, the Universal Declaration of Human Rights calls on “every individual and every organ of society” (which includes business) to strive to protect and respect these rights. The exact nature of the responsibility of companies to safeguard these rights remains the subject of some debate.⁴

In addition to seeking to support and respect the protection of internationally proclaimed human rights, companies also need to ensure that they respect and comply with existing national laws in the countries where they operate. The challenge of respecting universally applicable human rights, while at the same time providing for the social, cultural and economic context of the affected country, raises some significant potential dilemmas for companies:

- How does one balance what may appear to be a country's cultural prerogative with what some may see as constituting an international norm of behaviour?
- Is it within the remit of the company to get actively involved in contributing to an improved human rights governance framework, or could this be construed as undue intervention and influence by the private sector in the policy decisions of the host country government?

BOX 1–SPECIFIC HUMAN RIGHTS ISSUES WITHIN SASOL'S SPHERE OF INFLUENCE

Following are some examples of actions that Sasol can take (and in almost all cases already is taking) as a means of promoting and safeguarding human rights within its sphere of influence:

Employees:

- Implement measures to provide safe and healthy working conditions and environments.
- Provide employees with freedom of association and the right to collective bargaining.
- Promote non-discrimination in personnel management practices.
- Ensure that the company does not directly or indirectly use forced labour or child labour, and undertake appropriate screening and monitoring of suppliers on these issues.
- Pay at least a living wage in countries of operation.

Communities:

- Prevent the forcible displacement of individuals, groups or communities, and compensate accordingly in instances of voluntary resettlement.
- Provide work to protect the economic livelihood of local communities.
- Respect the rights of indigenous people and communities.
- Work with local police or security service providers to ensure a common understanding of human rights requirements relating to the use of force, and provide training to security personnel on appropriate practices.
- Provide access to basic health, education and housing for employees and their families, if these are not provided elsewhere.

Environment:

- Implement measures to minimize the company's potential environmental impacts.

Host government: Respect national sovereignty

- Be committed to political neutrality.
- Implement training, monitoring and related procedures to prevent bribery and corruption.

What is the extent of the company's “sphere of influence”?

While the concept of “sphere of influence” is not defined in detail by international human rights standards, it is seen by experts to refer to those individuals or organizations that have a certain contractual, political, economic or geographic proximity to the company. Typically this includes the company's employees, neighbouring communities, business partners (including suppliers and contractors), and relevant authorities of the company's host government. The extent

of the company's ability to exert influence on the human rights activities of these groups will vary depending on its size and the nature of the relationship. Clearly the larger and more strategically significant the company, the broader its sphere of influence is likely to be. This has important implications for large petrochemical companies such as Sasol.

When is a company “complicit” in human rights abuse?

While recognizing the ultimate responsibility of governments in ensuring respect

for human rights, the changing operating context for business has prompted the Office of the High Commissioner for Human Rights (OHCHR) to lead efforts to understand and define the nature of corporate complicity in human rights abuses. A recent OHCHR briefing paper on human rights suggests that a company is complicit in human rights abuses “if it authorises, tolerates, or knowingly ignores human rights abuses committed by an entity associated with it, or if the company knowingly provides practical assistance or encouragement that has a substantial effect on the perpetration of human rights abuse.”⁵ Citing a recent court case in the United States, the OHCHR goes on to suggest that “the participation of the company need not actually cause the abuse; rather, the company’s assistance or encouragement has to be to a degree that, without such participation, the abuses most probably would not have occurred to the same extent or in the same way.”⁶

In a business context, the notion of complicity can occur in various forms:⁷

- *Direct complicity*: This occurs when the company knowingly assists in the violation of human rights—for example, by assisting in the forced relocation of people in circumstances related to a business activity.⁸
- *Beneficial complicity*: This refers to the case when a company benefits directly from the human rights abuses committed by someone else—for example, benefiting by the use of repressive measures committed by security forces guarding company facilities.
- *Silent complicity*: This relates to the failure of a company to question systematic or continuous human rights violations in its interactions with the appropriate authorities. This could include, for example, acceptance by the company of systematic discrimination in employment law against a par-

ticular group on the grounds of ethnicity or gender.

Although in some instances it might not be possible to prove complicity in a strictly legal sense, the court of public opinion may deem the company morally responsible. Such moral complicity can have significant implications for the company’s reputation and brand value. In light of the low levels of trust typically vested in business, and the significantly higher levels of trust generally enjoyed by NGOs, this can place a particularly strong burden on the company to demonstrate that it acted in an appropriate manner. This underlines the importance of being open and transparent, and of building constructive relationships with NGOs and other civil society organizations.

Evaluating the risks of doing business in a controversial state

Building on his response to the questions he had identified, Stiaan turned to consider what the implications of his assessment would be in terms of managing risks to the company, including in particular reputational and liability risks. In doing so, he identified three key considerations that should inform the company’s decision on the nature of its investment in a controversial country, and that will assist in identifying which of its activities might be most at risk of being associated with possible human right violations:⁹

- Is the country of such high risk that no investment should be undertaken (a “no go” country)?
- Assuming the country isn’t screened on this basis, what is the proximity of the host government to possible human rights violations?
- What is the proximity of the company’s operations to potential human rights violations?

Screening “no go” countries

The first step is to identify those countries where the act of investing in

that country will be sufficient, of itself, to raise the risk of being complicit in human rights violations. On the basis of literature on the subject, criteria for identifying possible “no go” states include governments that:

- are subject to international sanctions;
- have been accused of genocide, war crimes and/or crimes against humanity;
- refuse access to a neutral body such as the International Committee of the Red Cross; or
- do not respect popular sovereignty and where there has been a clear expression of popular sentiment against any foreign commercial activities.

Guidance on the identification of such countries is typically available from human rights NGOs and governmental and intergovernmental agencies.

As very few countries would typically be screened on the basis of the above criteria, a more sophisticated assessment is usually required. This involves assessing the proximity of the host government to possible human rights violations, as well as the proximity of the company’s operations to these violations.

Government proximity to human rights abuses

In evaluating the proximity of the host government to breaches of human rights obligations, the company should assess the extent to which the host government is *oppressive* (i.e., does it actively endorse the human rights violations), or *ineffective* (i.e., is it simply incapable of preventing them). This assessment can be informed by the advice of relevant UN agencies and non-governmental organizations such as Amnesty International or Human Rights Watch. Companies are less likely to be found complicit in state breaches of human rights where the breach is a result of ineffective enforcement rather than deliberate government oppression.

Company proximity to human rights abuses

In addition to assessing the role of the state, the company should also evaluate the proximity of its operations to the alleged violations. In those countries where the government is seen to be actively committing the human rights abuse, it is critical to ensure that the company's activities are not sufficiently linked to these abuses. This involves a consideration of the following questions:

- Will the company be operating in the region within the country where the abuses occur?
- Is there potential for the company's products to be used in committing the violation?
- Does the company deal in a strategic commodity – such as oil or a natural resource – that may be the subject of power conflicts in the region?
- If the company is complying with local legislation that may be seen to be in conflict with human rights obligations, do the company's activities violate the *principle* of the human right or the *standard* associated with that right?¹⁰
- Through its activities and operations, does the company contribute to strengthening the role of civil society, or is it strengthening the role of the host government?¹¹

Sasol's current approach to safeguarding human rights

This section provides a brief independent review (by the case study author) of the nature of Sasol's current approach to safeguarding human rights, based on company interviews and documentation.

Sasol currently has no separate policy specifically addressing human rights. The only stated policy commitment at group level that refers specifically to the protection of human rights is in the Sasol Code of Ethics,¹² with which all Sasol businesses are required to comply. In addition to the code, many human rights issues are also addressed – even if they are not ex-

pressly defined as human rights issues – through the company's existing policies and procedures relating, for example, to human resource management, occupational health and safety, environmental issues and the nature of the company's corporate social investment initiatives. Sasol's strategic growth drivers and daily business operations are founded on, and inspired by, Sasol's six shared values.¹³

The Sasol Code of Ethics

The Sasol Code of Ethics consists of four fundamental ethical principles – responsibility, honesty, fairness and respect – and 15 ethical behavioural standards. In terms of one of these behavioural standards (respect), all Sasol employees are required to “respect human rights and dignity.” The Code of Ethics, which was adopted in March 2004, was developed and approved after extensive consultation and workshops throughout the group. The code is based on a set of key principles, rather than detailed rules, in the belief that it is impractical to provide detailed rules for every conceivable situation where ethical considerations may be relevant. All Sasol decisions and conduct are required to be guided by these principles.

A separate *Guide to the Application of the Code of Ethics* has been developed to assist employees in making ethical decisions by exposing them to the thinking behind the principles, suggesting processes to guide ethical decision making, and communicating Sasol's policy on certain specific ethical dilemmas (Annex 1). The code and the guidance document have been communicated to all employees, including employees of subsidiaries, as well as to suppliers, service providers and customers. In addition to adherence to its Code of Ethics, Sasol requires full compliance with the United States Foreign Corrupt Practices Act and similar legislation in other jurisdictions.

The Sasol Limited Board of Directors, which is ultimately accountable for ethical business conduct in the company, has mandated the Nomination and Governance Committee to ensure that

the group has effective policies, structures and programmes to institutionalise and monitor ethics in Sasol. Specific provision is made for the Group Executive Committee (GEC) to issue practice notes on the practical implementation of parts of the Code of Ethics if such a need arises. Sasol's Corporate Ethics Officer manages the monitoring and implementation of the code.

An ethics forum has been established to monitor and report on ethics practice and compliance requirements, and to recommend amendments to the code and guide. Employee performance against Sasol's values, which incorporate the Code of Ethics, is assessed as part of the company's mandatory employee performance management system. Sasol has been operating an independent ethics reporting telephone line through external advisors since 2001. This confidential and anonymous ethics hotline provides an impartial facility for stakeholders to report fraud and other deviations from ethical behaviour.

Sasol's policies and procedures on human resources and safety, health and the environment

In addition to the specific provision in the Code of Ethics, many human rights-related issues are also addressed through the company's policies and procedures relating to human resources and safety, health and the environment. These include, for example, provisions relating to:

- labour and trade union rights;
- protection of employee safety and health, including the company's initiatives on HIV/AIDS;
- environmental management activities; and
- community engagement and corporate social investment activities.

Sasol has recently approved a set of minimum requirements relating to safety, health and environmental performance that default to the safeguard policies of the International Finance Corporation. Many of these safeguard policies specifically address various human rights issues.

Sasol is a signatory to the international chemical industry's Responsible Care initiative, and has been active in terms of implementing accredited environmental and safety management systems and undertaking sustainability reporting. Due to the nature of its activities, and its historical legacy (associated, for example, with its establishment by the Apartheid government), the company is under regular scrutiny by the media and local and international NGOs. In 2000, the Group Executive Committee adopted sustainable development as a strategic business philosophy. An overview of the company's sustainability performance is provided in their latest GRI (Global Reporting Initiative)-based sustainable development report available from the company website: www.sasol.com.

Country and project risk assessments

As Sasol gains experience in the international arena, it is moving up the maturity scale. It is no longer focusing predominantly on pure commercial viability, but is also now beginning to consider issues relating to reputation and image.

—Sasol Project Manager

All new investment decisions and projects are subject to Sasol's Business Development and Implementation Model (BD&I) that comprises a series of "decision gates." At each gate, the various risks associated with that project are reviewed. For projects that entail investments in new countries, a country-specific risk assessment process is undertaken that includes a review of potential financial, technical, socio-economic, political and legal risks. This assessment is undertaken using a detailed database of around 3,000 potential risks. The final decision on whether or not to invest is informed by the company's risk-bearing capacity.¹⁴ This process of risk assessment is complex and entails both quantitative and qualitative aspects. Sasol is in the process of further refining this risk management model, as part of a general global trend

that is moving away from a traditional focus on the quantifiable technological and financial risks, to provide for some of the more intangible issues associated with the company's reputation.

It has been suggested by some project managers that in the earlier days of its expansion into new regions, the focus of Sasol's risk assessment process was predominantly on assessing the project's commercial and technical viability, with limited provision being made for a sufficiently thorough assessment of some of the more intangible issues. However, as Sasol has gained greater experience in the international arena and improved its understanding of the expectations on global companies, there has come to be a greater awareness of the need to manage some of the so-called "non-financial" risks. This awareness complements Sasol's commitment to sustainable development as a strategic priority.

As the only large African non-state oil and gas company, Sasol recognizes that it has the potential to play a particularly important role on these issues, both within the region and as a member of the oil and gas sector. Although it is acknowledged that Sasol could potentially make a greater contribution to the development of certain international initiatives—such as the *Extractive Industries' Transparency Initiative* or the *Voluntary Principles on Security and Human Rights*—there is a sense that the company should seek first to address some of the challenges it faces in South Africa, its country of domicile. The experiences gained here—including, for example, implementing policies and procedures that comply with South Africa's progressive Constitution and Bill of Rights—will be useful in informing its expanding international activities.

Investing in countries with recognized human rights concerns

As Sasol expands its operations into countries that have been the subject of criticism for their human rights records (see Box 2), and in light of the increas-

ingly blurred dividing line between the responsibilities of companies and the responsibilities of host countries, there is an acknowledged need for a more structured review of the risks and opportunities associated with human rights. This is particularly the case as in many instances Sasol is considering entering into JV partnerships with state-owned companies from these countries.

Although many of these human rights issues in these countries may be beyond Sasol's sphere of influence (and not within its locus of control), and are issues for which it might be difficult to prove complicity, there are some anticipated activities where the nexus between the company and the potential breach of a human rights obligation is sufficiently close as to warrant proactive risk management practices.

On the basis of interviews with Sasol management, and an independent assessment of its proposed investment activities, following are examples of specific human rights concerns that Sasol should be cognisant of:

- managing issues relating to human resources, collective bargaining, and political and religious freedom in Iran and China;
- the possibility that voluntary community relocation may be required in India as a result of the implementation of a possible petrochemical venture;
- ensuring appropriate protection of its petroleum interests in Nigeria, without precipitating any human rights abuses (associated, for example, with the management of security forces);
- addressing concerns relating to rights to privacy and non-discrimination in Qatar; and
- managing concerns relating to the role and status of women in Islamic countries.

The recent stated commitment of Sasol's executive team to the promo-

BOX 3–HUMAN RIGHTS RISKS OF CURRENT AND POTENTIAL COUNTRIES FOR INVESTMENT

On the basis of the investigations and reports of organizations that undertake human rights assessments of countries, some or all of the following human rights concerns have been identified as occurring in some of the countries in which Sasol has, or is seeking to have, operations:¹⁵

- restriction of labour rights, including freedom of association, the right to organize and bargain collectively, and worker health and safety;
- the use of child labour and forced labour, including prison labour;
- the forcible relocation of communities;
- restrictions on freedom of assembly, including detention and abuse of demonstrators and petitioners;
- restrictions on religious freedom, control of religious groups, and harassment and detention of unregistered religious groups;
- unlawful monitoring of citizens' mail, telephone and electronic communications;
- arbitrary arrest and detention, and the harassment, detention, and imprisonment of those perceived as threatening to government;
- torture and coerced confessions of prisoners;
- systematic suppression of freedom of expression and opinion, including the closure of newspapers, the harassment and detention of journalists and editors, the blocking of Internet sites, and the jamming of broadcast signals; and
- restrictions on freedom of travel, especially for politically sensitive and underground religious figures.

tion of “values-driven” leadership will present some interesting challenges ahead as it seeks to find an appropriate balance between respecting the law, culture and religious values of the country in which it is operating, without undermining the company's stated values and commitments. Examples of specific potential challenges facing the company include:

- acting on a commitment to employee share-ownership in countries that do not permit this;
- operating in countries where the state may screen personnel on the basis of their religious belief, gender, or HIV/AIDS status;
- providing company pensions to employees in countries that have only state pensions;
- ensuring suitable provision and respect for different religious customs and holidays; and
- fulfilling a stated commitment to

recognizing collective bargaining in countries where union activity is restricted.

It is important to acknowledge the potentially positive role that a company such as Sasol can play through its investments, and the manner in which it acts as an agent for positive change. One area where this may occur, for example, is through the company's current explicit focus on promoting improved behavioural-based safety performance according to a core set of minimum standards. This potential for improved performance should not however be overstated, as there may still be times when there is a direct conflict between the company's stated values and the requirements of the country in which it is or will be operating. Management of these potential conflicts will require discretion and a certain degree of flexibility, with the aim as far as possible of maintaining conformance with the underlying *principle of*

the human right, if not the traditionally imposed *standard* associated with that right.¹⁶ How this is done will require judgement and integrity.

A recent example of Sasol's approach to flexibility is evidenced in its response to the locally imposed requirement that all prospective visitors to Qatar undertake an HIV/AIDS test, the result of which forms a precondition for entry. Sasol's response to this requirement was to ensure that all prospective employees considering this posting were provided with ample notification of this requirement and given full flexibility in deciding whether or not to pursue this posting, with no pre-judgement taken or further career discrimination on the basis of their decision. In so doing, the rights relating to privacy and freedom of choice are protected.

The Mozambique Natural Gas Project: Selected human rights experience

Sasol's experience following its recent investment in the Mozambique Natural Gas Project (NGP), provides a useful basis for reviewing how Sasol's current approach to safeguarding and promoting respect for human rights has been applied at a practical level, and for assessing the extent to which the principles of the UN Global Compact have been applied.¹⁷

Project background and overview

The economic potential of utilising Mozambique's natural gas resources has been under investigation for many years. Following the conclusion of an Exploration Agreement and a Petroleum Production Agreement covering the Temane and Pande Gas Fields, Sasol, along with its Mozambican affiliate companies, was granted exploration rights in the northern parts of Mozambique's Inhambane Province. In November 2001, Sasol obtained formal approval from the Government of Mozambique to commence implementation of the NGP. As a result of the fact that the World Bank Group provided project financing, compliance was required with safeguard requirements,

policies, guidelines and standards relating to the project's safety, health, environmental and social impacts.

The project involves the phased extraction, processing, transportation and utilisation of the natural gas reserves in the Pande and Temane field reservoirs. To date, the project has included the first phase of exploration and development of these gas fields, the establishment of a Central Processing Facility at Temane, and the construction of an 865-km cross-border pipeline between Temane in Mozambique and Secunda in South Africa. It has also entailed the conversion of the Sasol Gas pipeline network supplying customers in South Africa, the conversion of the Sasolburg factory to process gas as its hydrocarbon feedstock, and the conversion of Sasol's Secunda factory to process gas as a supplementary feedstock. Construction of the Central Processing Facility and the 865-km cross-border pipeline to transport gas to South Africa began in 2002. The first supply of natural gas reached Secunda in February 2004, and the project became commercially operational on 26 March 2004. The second phase of exploration work for the project is ongoing. An onshore seismic programme was completed during the course of 2005 and exploration drilling will follow in 2006/2007.

The Natural Gas Project: Identifying human rights issues

The Natural Gas Project (NGP) is a large undertaking comprising many infrastructural elements covering a large proportion of Central and Southern Mozambique. While the project holds significant potential for stimulating economic development in Mozambique and South Africa, it has some unavoidable impacts on the social and socio-economic environments of the region.

Some of the specific human rights issues associated with the project included:

- ensuring non-discrimination in employment practices;
- ensuring that appropriate

benefits from the project accrue to affected communities, for example, by promoting localization of labour and local procurement, providing skills development and training opportunities, and implementing focused corporate social investment initiatives;

- minimizing any potential negative environmental and occupational health impacts;
- addressing concerns relating to HIV/AIDS; and
- managing issues relating to resettlement and compensation.

Arguably one of the most significant of these issues from a human rights perspective related to the resettlement and compensation of individuals affected by the project activities. Sasol's approach to managing this issue within Mozambique is briefly reviewed below.

Resettlement: Managing a potential human rights dilemma

Within Mozambique, the Natural Gas Project comprised three primary activities: exploration, gas field development and operation, and pipeline construction and operation. Each of these three activities had its own unique resettlement requirements that had to be managed (Annex 2). To meet the financing requirements of the World Bank, Sasol adapted its initial Resettlement Action Plan into a more comprehensive Resettlement Planning and Implementation Programme (RPIP) that complies with relevant World Bank procedures, policies and directives.¹⁸

All of the resettlement for the project was completed in accordance with the RPIP, with the aim of ensuring the equitable and fair treatment of all people as regards the resettlement, compensation and related aspects (such as property rights infringements) associated with the Natural Gas Project. The RPIP included a commitment to the following primary objectives (see also Annex 3):

- Involuntary resettlement should be avoided where feasible, or minimised, with all viable alternatives explored;
- Where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed in a sustainable manner, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits;
- Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programmes; and
- Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.

To ensure effective implementation of the RPIP, consultation was undertaken with government authorities at all levels, from the national Government of Mozambique to local traditional authorities. Two key features of the consultation and participation of the authorities were the establishment of a representative Joint Task Force and the accompaniment of Resettlement Team members by government representatives. In addition, Sasol deployed a full-time Community Liaison Team that had ongoing discussions with the Government and affected communities.

The Mozambique section of the pipeline and the flow lines from the wellheads to the central processing facility have development exclusion zones around them for safety and maintenance reasons. While there is little restriction on agricultural development, settlement within the exclusion zones, over and above a small agreed increase, is prohibited. In terms of the independent assessments

that have been undertaken in accordance with International Finance Corporation (IFC) requirements, it is suggested that in practice, unnecessary restrictions on the use of land in the exclusion zones have been largely avoided and, for the most part, people who were temporarily affected by construction activities have been able to return to their lands and agricultural practices. In those instances where they not been able to do so, they have been fairly compensated in accordance with the RPIP.¹⁹

Monitoring and evaluation programme

In accordance with the financing agreements, monitoring and evaluation (M&E) reports were submitted quarterly for the first two years and twice a year for the following two years. In addition, regular internal audits were conducted. One external audit per annum is required for a period of five years following the start of the monitoring programme. The outcomes of the M&E programme and the findings of the internal and external audits constitute an important barometer for assessing the integrity of the implementation of the RPIP, and for evaluating the impact of the project on resettlement and human rights issues.

The stated objectives of the M&E programme – which covered homesteads, graves and *machambas* (subsistence farming plots) – were to assess compliance with the following resettlement objectives:

- to assist re-settlers in adapting to their new environment;
- to monitor the effects of resettlement for a period of four years and to take the necessary actions to address resettlement related problems should they arise; and
- to continuously assess the re-establishment of comparable sustainable livelihoods of persons affected by resettlement.

During the M&E assessments, all of the households that were provided with replacement housing were visited, together with a selection of the households provided with replacement *machambas*.

On the basis of these audits, the auditors confirmed that there had been a generally consistent and correct application of the M&E procedures required by the RPIP. In addition:

- Sasol's M&E staff were found to be competent, considerate of the affected households that were visited and professional in their approach to affected households.
- Although the auditor found that replacement houses were built according to a specification agreed with the Mozambican government, it was recommended that Sasol consider improving the insulation and/or ventilation in the houses; Sasol agreed to undertake this action.
- A change in procedures was agreed to in order to facilitate better participation of the owners of the replacement *machambas* during the M&E visits.

Development of a communications plan

Transparency and effective communication form an important part of an initiative of this nature. As the operator of the pipeline, Sasol developed a communications plan that was intended to serve as a preventative management tool. In Mozambique, the plan communicated to people the safety aspects of gas transmission and the risks caused by unauthorized activities in the partial protection zone around the pipeline. All relevant authorities and government departments were issued with letters to reinforce awareness of the pipeline. In addition, as an aid to the planning of agricultural and agro-industrial developments, local authorities were supplied with GIS documents to illustrate the exact location of the pipeline in relation to other land uses. Colour posters in Portuguese and Tsetswa were prepared to help communicate the message at village level.

From 2005, Sasol implemented the plan at various levels including national, provincial and local government, village chiefs and community forums. Five route inspectors were appointed, who

were responsible for monitoring the integrity of the pipeline and for reinforcing local community awareness about the pipeline. This team communicated with local authorities, traditional leaders and members of local communities along the route as part of their routine pipeline inspections.

The community liaison manager visited the district authorities along the route once every two months to discuss any issues relating to the pipeline and the surrounding partial protection zone. This was supplemented by communication campaigns focusing mainly on community groups and schools during the school holiday camps.

Implementation of a focused social investment programme

To give effect to Sasol's commitment to strategic corporate social investment, a social development policy and strategy was developed in 2002 and subsequently updated. A rigorous method has been developed on the basis of which Sasol identifies, approves, implements and monitors projects that are funded by its Social Development Fund (SDF).

The SDF management team has developed a five-step, project-specific work methodology aimed at delivering sustainable community development projects. This comprises:

- defining real needs in consultation with members of the affected community;
- generating efficient solutions that involve the community and provide for environmental issues;
- approving projects in a manner that ensures good corporate governance;
- implementing the projects using Sasol's project management experience; and
- undertaking monitoring and evaluation programmes aimed at ensuring project sustainability.

In Mozambique, Sasol approved an amount of US\$800,000 for the 2006 financial year for use in social investment programmes. Approved projects

include the provision of water supplies, craft training, electrification of a primary school, rehabilitation of cattle dipping facilities and the construction of a water supply dam. Involvement in the management of HIV/AIDS issues in Mozambique has been taken over by Sasol's Social Development Fund. A decision has been taken to support existing NGO initiatives in this regard in preference to designing and implementing stand alone HIV/AIDS programmes. A joint SDF and NGO programme is located in Maputo Province (Magude), and funds have already been allocated for this purpose.

Lessons learnt from the Mozambican experience

The following general observations and lessons learnt arise from the Mozambique project:

- As with many of Sasol's current and planned investments, the project was a partnership with the host country government. Furthermore, it was a significant investment in a strategic commodity having an important impact on the local economy. The significance of the investment and the nature of the partnership with the host government increase Sasol's sphere of influence and raise the potential of being deemed complicit in possible government human rights abuses directly or indirectly associated with the project.
- This increased risk profile underlines the importance of human rights considerations forming an important part of Sasol's BD&I project assessment process, particularly as Sasol extends its activities into countries with more visible human rights concerns. The experience in Mozambique is sufficient to demonstrate the need to consider more than commercial and technical viability within

the project feasibility assessment process.

- Although management of many of the safety, health, environmental and human resource aspects of the project were addressed as part of Sasol's existing policies and practices, the need to comply with World Bank policies and procedures as a financing requirement formed an important additional consideration. As a result of the Equator Principles, in terms of which many private sector project financiers now require compliance with World Bank and IFC safeguard policies and guidelines, these are increasingly being seen as the norm for projects of this nature. Sasol's recent commitment to a set of minimum safety, health and environmental requirements (based on the IFC's recently updated environmental and social policies and procedures)²⁰ reflects this understanding. To promote effective adoption of these requirements they should be formally integrated in the project feasibility and development process; provision should also be made for increasing the awareness and understanding of project managers of the implications of these requirements.
- Some of the important positive features associated with the Mozambique project include:
 - › having a clearly defined set of project commitments;
 - › promoting transparency and engagement through a structured communications plan;
 - › implementing a strategic corporate social investment programme that seeks to address

specific needs identified in consultation with members of the affected community; and

- › ensuring provision for a formalised monitoring and evaluation programme that includes periodic assessments and audits with both internal and external auditors.

Notwithstanding the fact that the human rights aspects of the Mozambican project have been managed in a sufficient manner, Sasol has recognized that there is scope for a more structured approach to human rights relating to the company's potential investments in countries with human rights concerns. A recent report by an NGO team that had interviewed some of the resettled Mozambican villagers highlights the increased scrutiny that large companies are facing.²¹

Sasol and human rights: Elements of a more systematic approach

Recognizing the challenges associated with more systematic management of the potential human rights risks associated with Sasol's investment into countries with human rights concerns, Stiaan has identified the following six elements as key to the company's structured human rights risk management process:

1. providing human rights awareness and training programmes for specifically targeted staff;
2. integrating human rights issues more formally in project and country risk assessments;
3. providing for human rights concerns in relevant company policies and procedures;
4. developing structured strategies to respond to allegations of human rights violations;
5. ensuring appropriate consultation and communication on human rights issues; and

6. implementing human rights monitoring and assurance mechanisms.

Stiaan's assessment of the implications of these activities is briefly reviewed below.

Human rights training and awareness programmes

Recognizing the need to increase the awareness within Sasol of the implications of the human rights agenda for the company's growing international investments, appropriate awareness and/or training programmes are anticipated for targeted staff, including project managers, human resource personnel, security staff, and procurement employees. The aim of these programmes, tailored to suit the nature and level of staff responsibility, would be to increase awareness and understanding of:

- the nature of international human rights obligations, including in particular the "non-derogable" provisions of the International Bill of Human Rights;
- the risks and opportunities that these rights present for the company as it expands its activities;²²
- the human rights situation in countries in which Sasol has, or is planning, operations;²³
- possible human rights concerns within Sasol's sphere of influence and for which it may be deemed complicit; and
- the opportunities presented by international initiatives and standards on human rights.²⁴

Country and project risk assessments

Sasol has recognized that as it expands its operations into countries where there are human rights concerns, there is a need to ensure that human rights considerations are integrated effectively within the company's current political risks assessment process. On Stiaan's recommendation, this process should include provision for:

- accessing regularly updated information to assess the human rights situation in the countries

in which Sasol is planning operations, where necessary using the advice and input of expert service providers, research bodies and/or relevant NGOs;²⁵

- formally integrating Sasol's minimum requirements and the updated International Finance Corporation (IFC) safeguard guidelines in the risk management process; and
- identifying the activities of the company most at risk of being deemed complicit in possible rights abuses.

In certain instances, a country's human rights record should constitute a sufficient basis for choosing not to invest in that country. It should be recognized that when a particular business unit does choose to undertake activities in a potentially high-risk country, any resulting reputational damage will affect the group as a whole and not just that business unit.

Integration in company policies and procedures

To ensure appropriate "support and respect" for human rights throughout its activities, and to minimise the potential for complicity in possible abuses, provision has been made for the integration of human rights issues within relevant company policies and procedures. The primary focus within Sasol has traditionally been on addressing the human rights elements relating to:

- the health and safety of employees and service providers;
- employment equity and non-discrimination;
- human resource issues such as skills development, freedom of association and collective bargaining, and employee remuneration; and
- environmental and social management issues.

To provide for the potential new risks associated with the company's growing global activities, as well as for the changing expectations relating to the boundar-

ies of corporate responsibility, Sasol has recognized that there is scope for further integrating human rights concerns within existing policies and procedures. This includes:

- formalizing appropriate functional lines of responsibility for human rights;
- integrating human rights issues into procurement and supplier auditing procedures and where appropriate making use of recognized international standards (such as the Social Accountability 8000 (SA8000) Standard);²⁶
- providing for human rights concerns within the company's current activities relating to the global harmonisation of human resources policies;
- including human rights training as part of cultural awareness programmes prior to foreign posting; and
- developing appropriate security procedures, including screening and training of security staff.²⁷

As Sasol increasingly becomes a global player in the energy sector, Stiaan has identified that there may be opportunities for the company to engage more actively in discussions relating to the development and implementation of international initiatives such as the Extractive Industries' Transparency Initiative²⁸ and the Voluntary Principles on Security and Human Rights.²⁹

Human rights response strategies

In the same way that Sasol has structured response plans in place for safety and environmental incidents, so measures should be in place to respond to allegations of human rights violations. As with safety and environmental incidents, these plans should provide for:³⁰

- recording and reporting all allegations and possible incidents of human rights abuses within Sasol's area of operations;
- undertaking internal investigations into the root cause of any incidents that might credibly be

seen to be a result of an action or omission by Sasol;

- communicating with internal and external parties on the findings; and
- implementing appropriate measures aimed at reducing the potential for future incidents.

Consultation and communication on human rights

As Sasol's experience in Mozambique has highlighted, communication and consultation with all stakeholders during the various phases of the project cycle is an essential component of an effective response to human rights issues. In addition to the reputational and risk management benefits associated with appropriate stakeholder consultation, there are important potential advantages associated with internal and external communication processes on human rights. While Sasol has received local and international recognition for its sustainability reporting practices,³¹ the company recognizes that there are opportunities for further disclosure on the potential human rights implications of its activities.

Anticipated activities relating to *internal* communication on these issues include:

- sharing experiences on the business implications of human rights (including, for example, partaking in Global Compact dialogues, as this case study does);
- encouraging internal dialogue on some of the challenges associated with human rights;
- facilitating effective non-compliance reporting and whistleblowing; and
- providing a regular account of the company's human rights performance.

External engagement and communication – with the host government, the foreign offices of the country of domicile, local business peers and/or civil society organizations – often forms

the most feasible and effective response to possible human rights infringements by the host country's government, typically best undertaken in the form of private conversations.

When communicating with the host government, this dialogue might seek to build on the government's existing initiatives to promote human rights, before highlighting possible benefits to the government (such as increased investor confidence) for further upholding human rights. Should this "respectful dialogue"³² fail, there may be scope to work in a subtle manner – for example with the diplomatic offices of the country of domicile, or appropriate inter-governmental agencies – to encourage bilateral or multilateral initiatives aimed at promoting improved behaviour. As a last resort – though this is seldom seen to be the most appropriate or effective response – the company may choose to speak out publicly against the government agencies that are alleged to have committed the abuse.

Human rights monitoring and assurance mechanisms

A final element in the more systematic approach relates to the development of appropriate monitoring and assurance mechanisms. A useful tool that Sasol has identified for assessing and reviewing its human rights performance is the Human Rights Compliance Assessment (HRCA). Developed by the Danish Institute for Human Rights, the HRCA contains approximately 350 questions and more than 1,000 human rights indicators drawn from the Universal Declaration of Human Rights and other major treaties. The tool has been developed to assist companies to identify and assess their response to human rights dilemmas, and to detect possible human rights violations within their field of operation.³³

Although Sasol has not yet formally evaluated its performance using this tool, it has co-operated with an independent project being undertaken as part of the Human Rights and

Business South Africa Project that is reviewing the application of the HRCA to South African business and that is investigating the possibility of developing a South Africa-specific HRCA.³⁴ The findings of this assessment will form an important input into the further development of a co-ordinated response to human rights issues within Sasol.

Concluding comments

Reflecting on the outcomes of his brief review and assessment of the practical implications of the human rights principles of the Global Compact, Stiaan looked forward to continuing his dialogue with relevant decision makers within Sasol, with the aim of developing and implementing a structured risk management process relating to human rights issues. He wondered what progress regarding Sasol's human rights activities he would be able to report on in the company's next sustainable development report.

ANNEX 1—EXTRACT FROM THE
SASOL GUIDE TO THE APPLICATION OF THE CODE OF ETHICS

4 Respect—We acknowledge the rights and dignity of others

4.1 We respect human rights and dignity

Sasol supports the concept of human rights as contained in the Constitution of the Republic of South Africa and the UN Universal Declaration of Human Rights.

Sasol respects the rights to life, liberty, security, and the right to be free from slavery, servitude, torture or cruel, inhuman or degrading treatment or punishment.

Sasol wishes to make a positive and constructive contribution to the reduction and elimination of all forms of forced and compulsory labour. We do not tolerate unacceptable treatment of workers such as exploitation of children, physical punishment or involuntary servitude. We expect our contractors and customers to uphold the same standards.

In places where Sasol operates and child labour exists, we will seek to engage in programmes and projects that encourage and facilitate the transition to alternatives to child employment such as apprenticeships, training and further education; we will work constructively with our contractors and suppliers where appropriate.

Sasol respects people's rights to privacy, in matters relating to family, home, correspondence, reputation and freedom of movement. Sasol also respects people's rights to freedom of thought, conscience and religion, freedom of opinion, expression and association, and the right to take part in government.

Sasol respects the rights to social security and the economic, social and cultural rights indispensable to human dignity and the free development of each individual's personality.

High levels of violence and a poor human rights record in some countries are to be condemned but need not in themselves preclude company investment. Although it is not always easy, it is possible to work securely and in an ethical way in such situations. Sasol supports and respects the protection of internationally recognized human rights within our sphere of influence.

4.2 We treat our stakeholders with respect

Fair business conduct requires that we note and acknowledge the rights of our stakeholders and have an awareness and appreciation of the impact of our decisions on our stakeholders.

4.3 We do not discriminate on the basis of factors such as race, religion, gender or sexual orientation

Sasol respects fundamental rights and freedoms for all, without discrimination on the basis of race, colour, religion, gender, age, language, culture, national origin, citizenship, sexual orientation or disability.

ANNEX 2—POSSIBLE RESETTLEMENT IMPACTS OF THE MOZAMBIQUE NATURAL GAS PROJECT

The Natural Gas Project comprises three primary elements within Mozambique, namely: the exploration of the gas fields of Temane and Pande and the Exploration Block; the development of the gas fields; and the construction and operation of an underground pipeline from the Central Processing Facility to Ressano Garcia.

Exploration involved the following main activities:

- Establishing a temporary central base camp with offices, workshops and accommodation for 150 staff.
- Deploying teams to de-mine predetermined cut line routes.
- Deploying bush clearing teams to clear-cut lines of all vegetation.
- Deploying teams to undertake seismic testing.

Resettlement impacts arising from the above activities related mainly to grave exhumation and reburial, crop losses and temporary loss of access to *machambas* (subsistence farming plots). Apart from minor accidental damage to infrastructure and the death of one goat, no infrastructure or homesteads were impacted upon during seismic exploration. Where these were encountered on a cut line, they were avoided by altering the predetermined route of the cut line.

Gas field development involves a number of different but interrelated activities/project components:

- **Central Processing Facility:** The planning of this facility was undertaken to avoid resettlement.
- **Zone of Partial Protection (ZPP):** Resettlement impacts arising from the ZPP relate to the permanent displacement of five homesteads and 22 *machambas*, and crop losses from these *machambas*.
- **Main Access Road:** Resettlement impacts arising from the construction and operation of the access road included the displacement of four homesteads and 16 *machambas*, with associated crop losses.
- **Wells, Flow Lines, Access Roads and Ancillary Works:** Impacts included grave exhumation and reburial, the replacement of two homesteads, crop losses and the displacement of 346 *machambas*.

The pipeline from the Central Processing Facility at Temane to Ressano Garcia will cover a distance of approximately 520 kilometres. Construction of the pipeline involves de-mining and bush-clearing the entire route thereby establishing a "right of way" for the project. Resettlement impacts included crop losses, the temporary loss of access to *machamba* and commercial farmlands, the exhumation and reburial of graves, the permanent displacement of homesteads and timber crop losses by the Government.

ANNEX 3–SASOL’S STATEMENT OF COMMITMENT TO RESETTLEMENT AND COMPENSATION RESPONSIBILITIES FOR THE NATURAL GAS PROJECT

Sasol welcomes the opportunity to have collaborated closely with the Government of Mozambique, the World Bank and other stakeholders to develop the Resettlement and Implementation Programme (RPIP) for the Natural Gas Project (NGP). Sasol considers the contents of the RPIP to provide a responsible framework and procedures according to which fair and equitable resettlement and related compensation of parties affected by the NGP were and will be ensured.

Sasol recognizes that the NGP’s operations and activities, as well as those of its partners, had and still may have resettlement and related impacts, such as property right infringement of affected parties as indicated in the RPIP and other relevant documents. As a responsible company, operating both locally and internationally through various business units, Sasol accepts its responsibility to manage these impacts on affected parties that are directly associated with the NGP and within its control, in order to ensure the long-term sustainability of the project.

This commitment has already and will be effected by Sasol within the ambit, scope and objectives of any or all of the following:

- Honouring its obligations and responsibilities with regard to resettlement and compensation, arising from the RPIP, commercial and financing agreements pertaining to the NGP and other documents, such as the RESA, prepared as generic or project-specific documents on the NGP;
- Providing appropriate and responsible resources, such as the Joint Task Team and the Resettlement Working Group, to implement the above.

Sasol further recognizes that this commitment will require a dynamic approach, which will be adaptable, adjusting to changing circumstances including the availability of new information and the sharing of knowledge and further consultation with stakeholders, including partners, communities and the governments concerned.

ANNEX 4–ASSESSING SASOL’S ACTIVITIES AGAINST THE GLOBAL COMPACT PERFORMANCE MODEL

One of the issues raised for consideration in this case study is the extent to which Sasol’s commitment to the Principles of the Global Compact is being internalised within the company. This annex provides a brief review of some of the main considerations as compared with the elements of the GC Performance Model.

- **Vision:** Sasol’s vision is to be a globally respected, world-class company characterised by values-driven leadership. This vision has received increased prominence recently following the launch by the chief executive of Project Enterprise, an initiative that aims to promote a culture and style of “values-driven leadership” throughout the company. The company’s commitment to human rights issues is further reflected in its Code of Ethics and in the decision of the group executive committee to adopt sustainable development as a strategic business philosophy.
- **Leadership and resources:** Various management structures are in place aimed at implementing the group vision and improving the global reach of sustainability governance throughout the organization. A senior executive has been appointed with specific responsibility for SH&E and sustainability, skills development, group strategy and operational excellence. The Board receives advice on these matters from the Group Risk and SH&E Committee.
- **Empowerment:** The sharing of experience and development of sustainability-related skills throughout the group is achieved through the Sasol’s global network of SH&E Communities of Practice, through the Corporate SH&E Governance Audits, as well as through the annual internal SH&E Conference. Although some training is given on the cultural context of the countries in which Sasol is investing, thus far there have been no initiatives focused specifically on understanding the implications of the human rights commitments for Sasol’s activities.
- **Policies and strategy:** The company has a corporate-wide SH&E policy and performance targets, as well as a recently approved set of minimum requirements based largely on World Bank Group and IFC safeguard policies, guidelines and standards. It also has a comprehensive set of human resource policies that are currently being updated as part of a process of harmonization throughout the group. Other than the Code of Ethics referred to earlier, there is no distinct policy on human rights issues.
- **Process and innovation:** The Sasol Vision includes a commitment to being innovative, which is further driven through the group targets. This is exemplified by the group’s internationally recognized R&D activities.
- **Impact on society:** Numerous stakeholder engagement and community outreach activities have been implemented throughout the group’s operations globally. The group’s social investment activities and general social management practices have received favourable comment from international rating agencies.
- **Impact on people:** Various activities are implemented within the organization. These include initiatives relating to employment equity, employee training and development, as well as internal health and safety programmes.
- **Impact on value chain:** Some work has been done in terms of involving suppliers and customers through the supply chain on sustainability-related issues. This includes working with suppliers to promote black economic empowerment, as well as assisting certain suppliers and customers on product stewardship activities. There is scope for more structured integration of human rights issues throughout the Sasol supply chain.
- **Reporting:** Sasol has published seven external reports on elements of its sustainability performance. The two most recent reports have been published “in accordance with” the sustainability reporting guidelines of the Global Reporting Initiative and have included a Communication on Progress (COP) on Sasol’s implementation of the Global Compact.

The nature of Sasol’s “compliance” with the GC Performance Model is, arguably, largely independent of any conscious decision to specifically implement the UNGC principles. Instead, this has arisen through Sasol’s commitment to promoting a culture and style of “values-driven leadership,” as part of its vision of being a globally respected, world-class company. This has included a commitment to sustainable development as a strategic business initiative, as well as to implementation of global minimum requirements based on World Bank standards. More information on Sasol’s approach to sustainable development is available in Sasol’s *Sustainable Development Report*, a copy of which can be downloaded from www.sasol.com.

Endnotes

- 1 The *Curse of Gold*, Human Rights Watch (June 2005).
- 2 The map is Business & Human Rights: A Geography of Corporate Risk produced by Amnesty International and IBLF and is available at <http://www.iblf.org/docs/geography/extractives.gif>.
- 3 This is made up of the *Universal Declaration of Human Rights*, adopted by the UN General Assembly in 1948, the *International Covenant on Economic, Social and Cultural Rights* and the *International Covenant on Civil and Political Rights*.
- 4 This debate gained prominence in discussions relating to the draft *Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with regard to Human Rights* that sought to identify which human rights apply directly to companies within their respective sphere of activity and influence. These "Draft UN Norms," written by a UN sub-commission, prompted a lively discussion, with a number of companies and business organizations protesting that they were seeking to shift responsibilities unduly to the private sector. Although they were not accepted by the UN and do not have legal standing, some companies are using the Norms as an assessment tool. Following the decision not to accept the Norms, in 2005 Secretary General Kofi Annan appointed Professor John Ruggie as his Special Representative on Business and Human Rights. An interim report based on Professor Ruggie's review of the Norms was published in February 2006, with the final report due in 2007. The report, and an animated exchange of views on it, is available at the Business and Human Rights Resource Centre. www.business-humanrights.org. The final report is likely to have an important bearing on the development of this issue and will be watched with interest by Sasol.
- 5 OHCHR Briefing Paper (2004).
- 6 This variation on a causation test has been applied in the US ATCA case, *Doe I et al v Unocal Corporation et al.* (quoted in Clapham, 2004).
- 7 OHCHR Briefing Paper (2004); see also BP (2006).
- 8 There is seen to be particular scope for complicity in the case of abuses that may be caused by a government agency that is a JV partner with the company, when the company knew, or should have known, of the abuses committed by that partner as part of joint project activities.
- 9 The following structured approach, developed as part of the Danish *Human Rights and Business Project*, presents a useful set of considerations that could form part of the company's existing political risk assessment process. (Human Rights and Business Project (2000)).
- 10 This is an issue of some debate in human rights circles, and requires some flexibility and discretion depending on each instance. An example of the difference between "principle" and "standard" is that presented by the context of operating in China, where the establishment of independent trade unions is outlawed. The underlying *principle* is that workers should have the right to collective representation; the traditional *standard* is that workers be allowed to form unions. To ensure compliance with the principle, if not the standard, it is suggested that a company operating in China should identify other opportunities for protecting this right, for example by promoting a consultative management style.
- 11 Issues to consider here include the extent to which the company engages in the local economy through its procurement and employment practices; produces products or services that the local population has access to and benefits from; and is transparent in its activities relating to human rights issues and in its payments to the host government.
- 12 The Sasol Code of Ethics is available online at http://www.sasol.com/sasol_internet/downloads/Sasol_Code_Ethics_1165226990257.pdf.
- 13 The Sasol values are: customer focus; winning with people; safety; excellence in all we do; continuous improvement; and integrity.
- 14 Of course in taking a "calculated risk," it is critical to ensure that the nature of the risk is, in fact, sufficiently "calculated."
- 15 Sources of country information include Amnesty International (www.amnesty.org), Human Rights Watch (www.hrw.org), the annual *Country Reports on Human Rights Practices* of the US Department of State (www.state.gov/g/drl/rls/hrrpt/), and various reports of the Business and Human Rights Resources Centre (www.business-humanrights.org).
- 16 Note the example referred to in footnote 9 above.
- 17 The following review of Sasol's human rights related activities undertaken as part of the NGP, is not intended to constitute a thorough independent assessment of these activities, but rather is provided as a basis for drawing some key observations and for identifying possible risks and opportunities facing Sasol as it seeks to ensure effective implementation of the UNGC principles. Elements of this review draw from Sasol documents published to meet World Bank financing requirements, including in particular the *Annual Integrated Disclosure Report (February 2006)*, the *Regional Environmental and Social Assessment*, and the *Resettlement Planning and Implementation Programme*. Much of the content of these documents reflects the findings of independent third party assessments.
- 18 Specifically those contained within Operational Policy 4.12: Involuntary Resettlement (OP 4.12), Bank Procedure 4.12: Involuntary Resettlement (BP 4.12) and Operational Directive 4.30: Involuntary Resettlement (OD 4.30).
- 19 In October of 2004, Sasol, in conjunction with Acer Africa, received the South African IAIA Premium Award for the Resettlement Planning and Implementation Programme of the Natural Gas Project.
- 20 See: <http://www.ifc.org/ifcext/enviro.nsf/Content/EnvSocStandards>
- 21 Soeker A. *What is Sasol up to in Mozambique: Is NEPAD colonialism of Africa by Africans?* (GroundWork, 2004). This brief report quotes villagers who expressed dissatisfaction with Sasol in not being offered jobs or other economic benefits. Some villagers cited also expressed concerns with aspects of the resettlement practices. The NGO report is not particularly detailed in articulating these concerns.
- 22 Training and awareness programmes on human rights risks and opportunities should build on the practical experiences of other petrochemical companies, including the experiences of BP in Colombia and Georgia, Total in Myanmar and Shell in Nigeria.
- 23 The Amnesty International/IBLF risk map available at <http://www.iblf.org/docs/geography/extractives.gif> provides an example of the types of issues to be considered; Human Rights Watch compiles an annual review of the human rights situation in different countries.
- 24 These include the Voluntary Principles on Security and Human Rights, and the Extractive Industries Transparency Initiative.
- 25 Useful sources of country information include, for example, Amnesty International (www.amnesty.org), Human Rights Watch (www.hrw.org), the annual *Country Reports on Human Rights Practices* of the US Department of State (www.state.gov/g/drl/rls/hrrpt/), and the reports of the Business and Human Rights Resources Centre (www.business-humanrights.org).
- 26 The SA8000 Standard is an auditable certification standard based on international workplace norms of International Labour Organization (ILO) conventions, the Universal Declaration of Human Rights and the UN Convention on the Rights of the Child (www.sa-intl.org).
- 27 Provision could be made for Sasol to subscribe to the Voluntary Principles on Security and Human Rights (www.voluntaryprinciples.org).
- 28 www.eiti.org
- 29 www.voluntaryprinciples.org
- 30 Elements of this response strategy have drawn on the approaches adopted by Shell (1998) and BP (2006).
- 31 Recent sustainable development reports by Sasol have received awards from KPMG South Africa and the Association of Chartered Certified Accountants (ACCA). Sasol's most recent sustainable development reports have been developed "in accordance with" the sustainability reporting guidelines of the Global Reporting Initiative (GRI) and have included Global Compact Communications on Progress. Copies of Sasol's sustainable development reports are available from www.sasol.com.
- 32 "Respectful dialogue" is the approach recommended by the former vice-president of BP and head of operations in Indonesia, John O'Reilly.
- 33 The International Finance Corporation is currently working on developing a human rights impact assessment guide that will seek to relate the impact of a company's existing or proposed activities to the human rights situation in the country concerned. (Ruggie, 2006)
- 34 Personal communication: Hanse Plogman, Project Coordinator Human Rights and Business South Africa Project, Humanist Committee on Human Rights (www.hom.nl); as part of this study, an independent assessment is being undertaken of Sasol's performance against the HRCA.

Road-testing the Human Rights Compliance Assessment tools

Esther Schouten*

Human rights issues addressed

- Security and conflict

Human rights management practices discussed

- Strategy
- Processes and procedures
- Communications
- Training

Human rights standards, tools and initiatives mentioned (beyond the UN Global Compact)

- Voluntary Principles on Security and Human Rights
- Danish Institute for Human Rights, Country Risk Assessment
- International Covenant on Civil and Political Rights
- International Covenant on Economic, Social and Cultural Rights
- Danish Institute for Human Rights, Quick Check
- Universal Declaration of Human Rights

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Abstract

This case study illustrates how a company can use business and human rights tools in its efforts to respect and support human rights and to avoid complicity in human rights abuses.

In particular, it describes Shell's experience of road-testing risk assessment tools developed by the Danish Institute for Human Rights. These tools can help companies to implement their commitments to the Global Compact's human rights and labour principles through identifying areas for priority action. The case study also demonstrates how trialing a tool with companies before it is finalized can greatly help to enhance its usefulness.

Company profile

Shell International BV is a global group of oil, gas and petrochemical companies with interests in biofuels, wind and solar power and hydrogen. It is active in more than 130 countries and territories and employs 108,000 worldwide. Its stated objectives are to engage efficiently, responsibly and profitably in oil, oil products, gas, chemicals and other selected businesses and to participate in the search for and development of other sources of energy to meet evolving customer needs and the world's growing demand for energy.

Introduction

Although human rights are primarily the responsibility of governments, Shell International BV explicitly supports the Universal Declaration of Human

Rights. In 1997, it integrated human rights into the Shell General Business Principles to make clear its intention to conduct business in a way that respects the rights of employees and supports human rights in line with the legitimate role of business. Shell then developed a number of initiatives to raise awareness within the company of human rights issues and embed human rights into its management structures and systems. An overview of these initiatives can be found on www.shell.com/humanrights.

This case study focuses on one such initiative: Shell's work with the Human Rights Compliance Assessment (HRCA) tools, which were developed by the Danish Institute for Human Rights. Since 2001, Shell has been road-testing the HRCA tools. This case study endeavours to share lessons learnt in road-testing the HRCA tools that may be beneficial to other companies. The case study provides a description of the tools, outlines their application within the Shell Group, and gives an analysis on their applicability and usefulness. The case study does not, however, examine in detail how the HRCA tools have impacted Shell policy, but instead focuses on lessons learnt from their implementation.

* At the time of writing this case study, Esther Schouten was conducting PhD research within Shell International on how the company implements human rights and was contracted by Shell to write this case study. Peer review was provided by Marie Busck, Adviser, Human Rights and Business, Danish Institute for Human Rights; and Marina d'Engelbronner, Programme Manager, Human Rights and Business, HOM - Humanist Committee on Human Rights. For more information on these organizations, refer to www.humanrightsbusiness.org and www.hom.nl.

Background

Multinational energy companies, such as Royal Dutch Shell, can play an important role in development by finding and producing oil and gas and supplying energy-related products and services. However, political unrest exists in some of the world's most resource-rich countries. In certain countries, daily life includes civil unrest, oppressive rule, armed insurgency, and terrorist or guerrilla activity.

Operating on a day-to-day basis in politically sensitive countries raises a number of challenges. These vary depending on the country, but frequently the challenges are in relation to human rights, security and environmental issues; but they also include bribery, corruption, standards of governance and application of international law.

Shortly after the Shell Group explicitly expressed its support for human rights in 1997, the need arose to understand and address the human rights risks faced when entering or operating in such politically sensitive countries and regions. At the time, the company found little information available on how private corporations should address or manage human rights. The company faced difficult challenges, such as how to translate the human rights conventions drafted for states to measurable indicators that are relevant to the business context. Shell started to proactively look for solutions and came across the Danish Institute for Human Rights (DIHR).

At that time, the DIHR had a Human Rights & Business project that sought to combine the expertise of the human rights community with the experience of business to develop practical and efficient human rights tools for companies. The ultimate aim was to assist business development while maintaining good human rights practices.

To that end, the DIHR developed the Human Rights Compliance Assessment (HRCA) tools. One of these tools, the Country Risk Assessment, compares local laws and practices against the Universal Declaration of Human Rights in addition to more than 80 other international treat-

ties. It identifies the main risk areas in a country, such as labour rights for foreign labourers or the behaviour of security forces. Companies can use the tool to test the procedures and practices they have in place for respecting these rights and work to close any gaps.

Spurred by this mutual interest in connecting business and human rights, Shell International BV and the DIHR began collaborating in 2001 to road-test these HRCA tools and deepen the understanding about what human rights means in practice for companies.

What is the HRCA?

The HRCA is a database of 350 questions and 1,500 indicators. These questions and indicators have been developed based on the minimum responsibilities of companies with regard to human rights, as defined by the DIHR, towards its employees, business partners and the wider communities in which they operate.

The HRCA uses the Universal Declaration of Human Rights (UDHR) as an overall framework and refers to the dual covenants (the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights).

In addition, more than 80 major human rights conventions and treaties, as well as the major ILO (International Labour Organisation) conventions are taken into account.

The HRCA was developed by the DIHR through extensive consultation with companies and NGOs all over Europe, with the goal of including necessary input from both audiences.

The HRCA consists of several tools that provide a practical step-by-step approach to assess all potential risks of violating human rights.

What are the HRCA tools?

The following HRCA tools are discussed in this case study: the Country Risk As-

essment, the Company Assessment, the Action Plan and the Quick Check.

Country Risk Assessment (CRA)

The CRA builds on twenty human rights drawn from the UDHR. The CRA is performed by the DIHR and evaluates how formal law and the social and cultural practices of a specific country compare with human rights norms.

Based on this assessment, the level of risk for a company operating in a specific country, with regards to the potential violation of human rights, is determined as "high," "medium" and "low." This business risk evaluation is based on the risk ratings in law and practice for each right, combined with an assessment of the relevance, link and proximity to company operations in general. The proximity of company operations includes relations with suppliers, contractors, security forces, communities and government.

Table 1 shows the outcomes of a Country Risk Assessment (CRA) performed for a country in North Africa, indicating the compliance level (high, medium or low) of formal law and social and cultural practices with human rights norms and the business risk level (high, medium or low) for twenty human rights:

Country Risk Assessment	High	Medium	Low
Non-compliance with formal law	7	10	3
Non-compliance with practices	11	7	2
Business risk	5	11	4

Table 1: CRA scores for country in North Africa

The CRA scores for the North African country shows that the formal legislation regulates human rights to a reasonable degree: Under formal law, compliance for 3 human rights is strong and for 10 human rights is medium. However, the balance shifts when looking at the levels in practice, where non-compliance with 11 human rights is high. For example, formal law regulates the right to privacy, but this right is sometimes violated by various arms of the state.

Based on the formal law and practices check, five human rights are identified to be high risk for business and their operations (across all sectors). For example, the country in North Africa does not have a national minimum wage system, which may lead to employees not being able to obtain an adequate standard of living.

Focal areas

This business risk assessment then allows for the selection of a number of focal areas for companies. The focal areas are selected in a two-stage process: 1) according to the status of the particular human right and the severity of the human rights violation; and 2) the company risk of human rights.

For the North African country, five focal areas have been identified for all companies and their business partners working in that country: working conditions, trade unions, discrimination, salary and government relations.

The selected focal areas are complemented with recommendations for companies to help mitigate the identified human rights risks. For example, a company operating in the North African country is advised to focus on working conditions of foreign workers because those workers are the most vulnerable group. A sample recommendation for foreign workers in this country is to ensure that such workers are provided with labour contracts and valid work permits.

Available CRAs

CRAs are developed based on the preferences of the member companies of the DIHR and/or the DIHR itself. CRAs are currently available for: Algeria, Brazil, China, India, Kazakhstan, Libya, Oman, South Africa, Tanzania, Ukraine and Vietnam. Expected CRAs include Russia and Kenya.

Company assessment

The second step is to create a customized HRCA check for the purpose of evaluating how company policy,

procedures and practices cover human rights risks.

The DIHR selects the questions and indicators from the HRCA database based on the business risk identified in the CRA, as well as taking into account the human rights risks related to the type of business operations in the country. In practice, this usually means that approximately 15% of the questions and corresponding indicators are selected.

For instance, based on the focal area of working conditions identified as a high-risk area for business in the North African country, questions and corresponding indicators are selected for the company assessment. The following is an example of such a question and indicators:

Q: Does the company ensure that its employment-related decisions are based on relevant and objective criteria?

- o Employment advertisements do not reference irrelevant characteristics, such as race, unless listed as part of an equal opportunities promotion.
- o Hiring managers receive training regarding the company's non-discrimination policies.
- o An individual or department in the company is responsible for monitoring the company's compliance with its non-discrimination standards and policies.

Then, in the form of a self-assessment, companies can assess coverage of human rights risks for the selected indicators at policy, procedure and performance levels. For example, a company checks whether there is a procedure in place that ensures all employment advertisements are non-discriminatory.

Action plan

After the company assesses its policies, procedures and performance on coverage of human rights risks, an overview will arise where the company has strong and weak coverage.

This may result in a plan of action for mitigation. The company may choose to invite key stakeholders to discuss the plan of action.

Quick Check

Besides this step-by-step plan, a short version of the company assessment, called the "Quick Check," can also be used. This check comprises of approximately 10% of the questions and indicators (28 and 230 respectively) from the full HRCA database. The Quick Check contains the most essential human rights issues, determined by the DIHR, for a company to consider in relation to its business operations. These fall into the following three categories:

1. Employment practices: forced labour, child labour, non-discrimination, workplace health and safety, freedom of association, conditions of employment and work;
2. Community impact: security, environmental health and safety, corruption and bribery, company products;
3. Supply chain management: relationship with suppliers.

The advantage of the Quick Check is that it takes considerably less time than the full HRCA and can therefore be used to quickly gain an insight into the human rights issues facing a particular company. The disadvantage is that it does not include the full pallet of human rights and is not country-specific (although it can be made country specific in combination with the other tools). The Quick Check is freely available and can be found along with the other HRCA tools at <https://hrca.humanrightsbusiness.org>.

A dialogue between the DIHR and its corporate members allows for a continuous adaptation of the tools that fit business needs. Future projects include sector-specific and country-specific HRCA checks.

Use of the HRCA tools by Shell International BV

First test

Before the development of the other tools, the Human Rights Compliance Assessment (HRCA) was first tested in a Shell company in Southern Africa¹ in 2001/2002 in four areas:

1. Does the HRCA identify the major human rights issues that the company is most likely to encounter?
2. Can the HRCA be conducted in a reasonable amount of time by the company?
3. Does the HRCA fit with the company structure and existing methods of addressing human rights?
4. Is the proposed HRCA method of checking suppliers/contractors viable?

The test proved useful in several ways and the questions all answered positively. In addition, the test also pointed to areas where the HRCA tools could be further streamlined, creating greater effectiveness. One issue, related to the first question, was that the HRCA was found to be strong on political rights, but weaker on labour rights. To address this imbalance, the DIHR decided to contract a labour law specialist.

Another issue, which relates to the third question, pertained to managers being unclear about human rights/legal terms used in the HRCA, such as “traditional knowledge holder” and “disenfranchised group.” The DIHR decided to address this by adding a glossary of terms and tone down the number of legal terms.

Developing a step-by-step approach

As a result of the test, the step-by-step approach was developed (as earlier described) and tested in a Shell company in the Middle East in 2002/2003 as a desktop exercise. This test proved that using a Country Risk Assessment in conjunction with the HRCA resulted in a more efficient tool that focused on the high-

risk areas for companies in that specific country.

For example, the test picked up that employees, particularly of a non-Muslim faith, would be especially vulnerable to discrimination based on the country’s laws and practices. A company operating in that environment is advised to design explicit non-discriminatory policies to ensure that the hiring, firing, promotion and benefits are not subject to influence based on religious grounds and to establish an independent and anonymous complaints system. Focusing on implementing these high risk and country specific recommendations would lead to a reduction of potential risks of violating human rights.

Shell Group assessment

Another issue that emerged from the tests with the HRCA was that Shell Group standards sometimes covered human rights risks in cases where these risks were not covered by local standards. However, no clear understanding existed as to what extent human rights risks were addressed in policies, standards and guidelines at the Shell Group level. Shell International BV therefore decided to apply the Quick Check at the Shell Group level in 2004/2005 to assess the extent in which policies and procedures on a corporate level address human rights.

To that end, Shell International BV performed this assessment by interviewing employees working within the different functional areas (such as Human Resources, Security, Contracting & Procurement) that related to the Quick Check areas (see section on “Quick Check”) as well as reviewing all existing policies and procedures. The DIHR reviewed the results, performed an analysis of how company procedures addressed human rights and provided recommendations.

The results showed that Health, Safety and Environment (HSE), Security and Product Stewardship have well-developed policies and procedures that also address

human rights. It also showed that many other functional areas did have policies and procedures in place covering human rights elements, but that these policies and procedures could be improved.

Shell International BV has since worked with the different functional areas to develop an action plan to address the findings.

Further testing the tool

The DIHR conducted a Country Risk Assessment for a particular country in Asia, of which Table 2 presents the outcomes.

CRA score Asian country	High	Medium	Low
Non-compliance with formal law	4	11	5
Non-compliance with practices	19	1	0
Business risk	13	7	0

Table 2: CRA scores for Asian country

The CRA scores for the Asian country show that while the formal legislation regulates human rights to a reasonable degree (compliance with formal law is strong in 4 human rights and medium in 11), this is not reflected in practice, given that non-compliance with 19 human rights is high. This is why a relatively high number of risk areas for business in general and their business partners are identified (13).

Based on the outcomes of the CRA and the business operations in the country, the DIHR selected 47 questions out of the total of 350 questions with corresponding indicators. These 47 questions related to the following focal areas: working conditions, trade unions, forced labour, health, salaries and terms of employment, relocations and privacy and family life. For example, this means that companies who operate in this country need to pay specific attention to preventing the use of forced labour in their operations.

In early 2005, Shell International BV tested the Company Assessment for a Shell company operating in the Asian country to review the existing policy,

procedures and practices with respect to human rights. Employees of the local Shell company were interviewed, policies and procedures were reviewed and practices were assessed. Table 3 below shows the outcome on coverage of human rights for the 47 questions.

Coverage of human rights in policies, procedures and practices	Strong coverage	More attention needed	Weak coverage	Not applicable
47 human rights questions selected based on CRA focal areas	13	23	9	2

Table 3: HCRA scores for Asian country

The HRCA assessment showed that the company in question had strict and clear guidelines and control mechanisms and practices with regard to health and safety, as well as bribery and corruption. The company also maintained a good relationship with local government institutions in regards to dealing with human rights-related issues. The results also showed that the company could improve their policies, procedures and practices in a number of areas to deal with human rights risks. These areas include: Contracting & Procurement, Legal and Harassment & Discrimination. An Action Plan was formulated with actions for the Shell company in Asia that are relevant to and feasible to execute in the local context. One action was to raise awareness regarding the Voluntary Principles on Security and Human Rights to which Shell Group signed up in 2000 (see [www.shell.com/human rights](http://www.shell.com/human%20rights)).

Applying Country Risk Assessments in new country entries

The testing of the HRCA tools demonstrated the value of the tools, especially the in-depth analysis of human rights risks enclosed in the Country Risk Assessments.

It was therefore decided to start applying these tools in new country entries. Since 2005, three CRAs have been used to identify human rights risks for new country entries in North

Africa and Eastern Europe. The CRA has been supplemented with a Shell specific action plan based on the recommendations made in the CRA. This action plan is then taken forward within these respective Shell companies when designing the new policies and procedures.

Although the implementation of the action plan is a continuing process, concrete outcomes so far include additional clauses in contracts and training for contractors to ensure protection of labour rights of foreign workers in particular.

Summary application of the tools within Shell Group

Table 4 shows how many times the HRCA tools were used during the period 2004-2006.

Level	CRA (DIHR)	HRCA (Shell)	Quick Check (Shell)
Shell Group			1
Shell companies in North Africa	2		
Shell companies in Asia	2	1	
Shell company in Eastern Europe	1		

Table 4: Use of HRCA tools within Shell

Reflecting on the HRCA tools

What are the benefits and current limitations of the HRCA tools?

Benefits of the HRCA tools

In general, Shell International BV considers the HRCA tools provide the following benefits:

- **Systematic monitoring and mitigating of human rights risks on a wide spectrum.** Applying the tools make hu-

man rights intelligible, as they focus on country and business specific high risk areas and indicators that allows efficient monitoring. A company is better enabled to assess its performance on addressing human rights risks. In addition, the tools provide recommendations on how to mitigate the risks identified and improve performance.

- **Complementing the standard process of risk assessment processes for joint ventures and investments in new countries.** The Country Risk Assessments can inform the decision-making process for new countries or joint ventures. Furthermore, a consultancy team is considering the integration of the HRCA tools in Shell's "integrated impact assessment" for projects. This process assesses the social, environmental, economic and health impacts that a new project may have on the local surroundings. The HRCA tools

provide the human rights aspect to this process.

- **Training and competency development of employees.** Applying the tools enables employees to understand the link between human rights and their daily business activities. This raises employee awareness on human rights and therefore, contributes to embedding human rights into mainstream business activities.
- **Sharing process, results and dilemmas utilizing the HRCA tools may facilitate stakeholder dialogue and may enhance reputation.** Stakeholders expect companies to show how they have implemented their

commitment to human rights. Choosing to share the process and/or results of the human rights compliance assessments may fulfil this expectation and it can bring more depth to stakeholder dialogues (since the subject of human rights is brought down to concrete actions).

Limitations of the HRCA tools

The limitations as experienced by Shell International BV are listed below.

- The indicators are formulated based on the minimum responsibilities of a business regarding human rights, as defined by the DIHR (and inter alia based on their consultation process with European companies and NGOs). Their definition includes respecting human rights (refraining from blocking or impeding access to a right) and an additional four, more positive areas (in relation to employees, use of products, people residing on company land and in some cases, where government services are absent). A company identifies the relevant indicators depending on the type of business and organisation, geographical locations, spheres of influence, etc. In this regard, Shell International BV chose to focus first on the level of respecting human rights, due to the global scope and impact of its operations. However, the distinction between the duty to respect human rights and more positive duties is not made explicit in the tools, which makes the selection more difficult.
- The language used by the HRCA tool does not always fit the local context and sometimes needs to be adapted, particularly in non-Western contexts. Some interview questions need to be rephrased so that the interviewee understands the questions and is not offended by them.
- No clear distinction exists between some policy and procedure indicators, which leads to some confusion regarding how to assess these indicators (whether it should be checked if there are policies in place or procedures that support these policies).

Reflecting on the application of the HRCA tools

Through trial and error, Shell International BV has learned a great deal about finding a suitable way to apply the HRCA tools. The aspects listed below include some of Shell's main findings.

- **Start at the global level.** Start the integration of human rights within global policies and procedures. Integration at a global level ensures consistency in the approach to human rights across individual country operations.
- **Focus on relevant company issues.** The tools are applied in such a way that the focus is on the relevant issues for an energy company.
 - › Even though the indicators are selected taking a risk-based approach, not all the indicators are relevant to energy companies. For example, energy companies will generally be confronted more with issues of relocation and indigenous people than with issues regarding child labour. This is also the case within the energy sector itself; refining and drilling activities face a different set of issues and priorities. Therefore, the company may need to prioritize the human rights risks according to its type of business. The option of prioritising the questions according to relevancy of the

company exists within the HRCA.

- › The size of the group of companies assessed and the timing of the assessment affects the relevance of indicators and efforts related to the application of the HRCA tools. When a business is just starting up in a country, a lack of people and an insufficient amount of resources may be present to allow for the application and follow-up of the HRCA tools and priorities. It is therefore crucial to consider when is the best timing to use the HRCA tools according to the size and maturity of the business.
- **Take into account the political realities and sensitivities.** The tools should be applied in such a way that it takes into consideration the political realities and sensitivities of the country.
 - › Because of the politicized nature of human rights, talking with employees about human rights within some countries may have negative consequences for themselves or for the company. This may require the use of different language than is used in the HRCA tools, for example, terms such as “business principles study” instead of “human rights assessment.”
 - › Some governments might find a Country Risk Assessment performed for their country offensive, as the conclusions of the report show how much progress is

required to achieve their international responsibilities of embedding human rights in national laws and practices. Where the government is a joint venture partner of the company making the assessment, the company needs to be very careful marketing the use of the tool.

- › The fact that the tool originates in Denmark does not help market the tool either, especially in the Middle East because of the international debate surrounding the cartoons of Mohammed in 2005. Hence, prior to introducing the HRCA tools, discussing the sensitivity and thinking about ways to mitigate the risks involved is recommended.
- **Take into account cultural differences.** Adapt the application of the HRCA tools to the local setting to account for cultural differences.
 - › Some recommendations may not fit the local culture and therefore may have little effect in improving conditions. In Asia, the outcomes of the HRCA tools brought to the surface a number of human rights dilemmas that unfortunately cannot easily be resolved. For example, the question of how a company is to ensure employee privacy when government monitoring of
- › communication is paramount. Nevertheless, the application of the HRCA tools uncovered these dilemmas and the information revealed may be valuable for policy purposes.
- › The assessment as to what extent the company's policies, procedures and practices cover human rights tends to be subjective. It is Shell's experience that the assessment works best when the team conducting the study is comprised of different people from the organization. Diversity in this context encourages greater alignment with international human rights principles, as well as secures pragmatic follow-up actions that fit the local context.
- **Check the available tools in relation to the needs of the local company.** The check to match the needs of the local company with the different tools available should be carried out regularly. Other tools, for example, human rights training, may be a better fit for the company.
- **Put in place competent resources at the local level.** How can one ensure that the results that emanate from applying the HRCA tools are actually implemented and become normal practice? In other words, how can we prevent companies from using the HRCA as a "tick-the-box" exercise? We recommend that a competent resource for implementing the Action Plan be involved at

the local level. A competent resource is somebody that a) is aware of the importance of respecting human rights, b) has the knowledge and understanding of human rights principles, c) has the motivation to move it forward, and d) is connected within the local company to ensure implementation of the desired outcomes. This way, the local company controls and monitors the outcomes and hence is more likely to yield results.

Conclusion

Overall, Shell International BV regards the tools as useful because they provide an innovative way to deepen our understanding of what human rights means at the operational level. However, the tools also contain a number of limitations. On the basis of discussions with the DIHR, the tools will be further refined, such as developing a sector-specific approach. Shell International BV is considering integrating the tools into several existing processes within the company, such as the integrated impact assessment process.

Endnote

- 1 No country names are mentioned for confidentiality reasons.

Constructing codes and broadening agendas: The case of Asocolflores, the Colombian Flower Exporters Association

Giovanni Mantilla*

Human rights issues addressed

- Child labour
- Collective action
- Diversity and/or non-discrimination
- Freedom of association/collective bargaining
- Living wage
- Occupational health and safety
- Supply chain
- Trade union rights
- Working hours

Human rights management practices discussed

- Getting started
- Strategy
- Policy
- Processes and procedures
- Measuring impact and auditing

Human rights standards, tools and initiatives mentioned (beyond the UN Global Compact)

- Milieu Programma Sierteelt (MPS) Certification Programme for the cut flower industry
- Flower Label Programme Code of Conduct
- ISO 14000
- ILO Standards

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Abstract

This case study focuses on an initiative by Asocolflores, the Colombian Flower Exporters Association, known

as Florverde (Green Flower) and describes its evolution from addressing standard environmental and social concerns to its treatment of more “thorny” topics in Colombia, such as respect for the right to freedom of association in the midst of armed conflict.

As such, it is relevant to Global Compact Principle 1 (Businesses should support and respect the protection of internationally proclaimed human rights) and Principle 3 (Businesses should uphold the freedom of association...). This initiative provides a good example of how external pressure, combined with proactive industry self-regulation, can improve the way companies approach human rights and labour issues in a complex environment such as Colombia. It also demonstrates how a collective action approach can be used to advance human rights and labour rights.

Organization profile

Asocolflores, the Colombian Flower Exporters Association, was created in 1973. Of the 600 companies in the flower industry in Colombia,¹ it represents approximately 220 of these, comprising nearly 75% of the country’s cut

* Giovanni Mantilla is a PhD student at the University of Minnesota. At the time of writing this case study, he worked for Fundación Ideas para la Paz (FIP). Peer review of this case study was provided by Canan Günduz, Programme Officer at International Alert’s Peacebuilding Issues Programme. Special thanks to Alexandra Guáqueta and Ángela Puentes from FIP for their valuable comments and input. The case study was researched and written with the financial support of FIP. The complete version of this case study, including references and additional annexes, is available on the UN Global Compact website: <http://www.unglobalcompact.org>

flower exports. Asocolflores' mission is to promote the flower business in the global market as well as in Colombia by focusing on scientific research, environmental care and worker well-being. "Sustainable floriculture with social responsibility" is Asocolflores' business approach. According to Martha Moreno, Director of Social Development at Asocolflores, the organization seeks "to cover every link in the chain that binds us to our environment: with workers' families and communities, through employment strategies, education on democracy, peaceful conflict-resolution programmes, protection of children, housing schemes, and recreational activities, among others."²

Introduction

Colombia is a country of many faces. On the one hand, it is generally regarded as a resource-rich country, well-known internationally for exporting coffee, emeralds and bananas. Colombia is also the primary cut flower exporter to the United States (where 84% of its total production ends up), the second largest exporter to the United Kingdom and third largest to Germany.³ Globally, Colombia is the second largest flower exporter in the world, generating over US\$900 million in 2005,⁴ and trailing only the Netherlands.

Domestically, flowers rank as the country's fourth largest export product, comprising 4.8% of Colombia's total exports in the last ten years.⁵ And with approximately sixteen workers per hectare, it is also one of the most labour-intensive industries. In 2005, the flower export business employed 111,000 direct workers (89% of them working onsite) and 94,000 indirect workers. It is also the sector with one of the nation's highest rates of female employment, at 65%.

On the other hand, Colombia is known for the armed conflict that it has experienced for over four decades. The two main Marxist guerrilla groups, FARC and ELN, remain active and the so-called "paramilitary," which have

been engaged in official talks with the Uribe government since 2002, have been gradually demobilizing and reintegrating its members into society. Since then, over 44,000 combatants from all armed groups have demobilized. Decades of armed conflict have had major impacts on the political, economic, social and cultural arenas in the country, and the private sector is one of the many actors to which the violent context has posed challenges. This case examines Florverde (Green Flower), a voluntary code of conduct introduced by Asocolflores that has grown in its scope from addressing standard environmental and social concerns to including treatment of more "thorny" topics in Colombia, such as respect for the right to freedom of association in the midst of armed conflict.

Florverde provides a good example of how external pressure, combined with proactive industry self-regulation, can improve the way companies approach human rights and labour issues in a complex environment such as Colombia. It also demonstrates how a collective action approach can be used to advance human rights and labour rights.

Freedom of association is a right addressed in both human rights and labour instruments. For example, in the Universal Declaration of Human Rights, it is found in Article 20 (Everyone has the right to freedom of peaceful assembly and association) and in Article 22(1) of the International Covenant on Civil and Political Rights (Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests). It is, of course, also the subject of a number of International Labour Organization (ILO) conventions.

The case is divided into four sections. The first presents the main factors and incentives that led the flower export sector in Colombia to think about these issues. The second describes the process undergone by

some companies and by Asocolflores to create a homegrown code of conduct for the sector. The third describes recent developments in this standard to include respect for the right to freedom of association in the Colombian context. Finally, the case closes by reflecting on some of the key challenges that Florverde may face in the future.

Raising the stakes: The *Blumen-Kampagne*

The Colombian flower export industry is no stranger to the action of international advocacy networks.⁶ In the early 1990s, the FoodFirst International Action Network (FIAN),⁷ and later *Terre des Hommes*, Bread for the World and Christian Aid, organized a campaign called *Blumen-Kampagne*, which aimed "to secure the fundamental rights of the female workers as well as environmental protection in flower production."⁸ The case of these NGOs was strongly supported by a documentary released in 1988 titled *Love, Women and Flowers*, showcasing alleged exposure of Colombian female workers to pesticides without appropriate respiratory protection and equipment.⁹

This group of NGOs campaigned in religious circles and approached the German Flower Wholesale and Import Trade Association (BGI), asking them to put pressure on Colombian exporters to stop these alleged abuses. The *Blumen-Kampagne* came up with a list of around 40 "demands" to Colombian cut flower exporters, which ranged from social (particularly related to worker well-being and hiring practices) to environmental issues (especially use of pesticides). The campaign passed the list (emblematically named either "Clean Flower Declaration" or "Colombia Flower Declaration") on to the German importers, who in turn approached their Colombian providers. Initially when faced with such a list, according to Juan Carlos Isaza, Director of Florverde at Asocolflores, "there was great distrust from us, namely because this list was coming from people who had

badmouthed us, which would eventually lead to a drop in our sales.” In addition, Asocolflores considered the list to be technically flawed, as “[the campaigners] were not technical experts on the flower business, but political activists.”

Nevertheless, the decision on the side of flower exporters in Colombia was to take this checklist seriously, to review it and see how they could adopt it. According to Isaza, “bottom-line, we saw this as an opportunity to stand out and position ourselves.” Such leadership on the side of Asocolflores played a central role because, as explains Augusto Solano, President of Asocolflores, one key trademark of the flower exporter industry in Colombia has been its proactive stance on topics of sustainable development: “For instance, Asocolflores was a founding member of Cecodes in 1993, the Colombian Business Center for Sustainable Development, which became the Colombia chapter of the World Business Council for Sustainable Development (WBCSD); of the National Center for Cleaner Production, based on the United Nations Environmental Programme (UNEP) principles; and had been involved in several regional initiatives since the 1980s to promote best environmental practices, so in this sense there was a combination of external and internal factors at play here.”

Asocolflores thus invited experts and human resource staff from its member companies to participate in a number of working groups to study the list. Their task was to look at the list of questions, share it with Asocolflores’ affiliates and collectively see how they could take on board its contents. But they also saw it as an opportunity for learning. “In 1994, once we received this checklist, we inevitably had to speed up our learning processes,” recalls Isaza.

The first step was to hire a consultant to elaborate on the issue of environmental impact. This then led to a larger learning project: to put together a group of companies and run a pilot project to see what was actually happening in the farms. “We felt there was more to know

regarding potential problems on the ground related to social and environmental topics,” says Isaza.

According to expert Marta Pizano, who first worked for Asocolflores and later for individual companies as an external consultant, another key to understanding the industry’s problems was a study commissioned by Asocolflores on the “environmental dimension” of Colombian floriculture in 1991.¹⁰

With improved understanding of the situation and challenges, Asocolflores was better equipped either to respond to the arguments of the NGOs. They wrote an 80-page document responding to each of the demands. “They did not accept our interpretation of their requirements,” asserts Isaza, and at a flower fair in Germany, Asocolflores publicly declared that if their suggestions were not even going to be considered, they could not accept the so-called “Declaration” promoted by these NGOs in alliance with BGI.

In addition, according to Isaza, Asocolflores was also pressured by Colombian authorities not to sign such a document because it could have opened the doors for other sectors to become vulnerable to similar demands. “They didn’t want us to sign it either, especially because they saw it as a threat to other Colombian products, given that even though this kind of campaigning could be genuinely intended to improve production conditions, it also served the purpose of benefiting other players in the market at the expense of us (Colombia) losing ground in it,” explains Isaza.¹¹

Moreover, the fact that the “Clean Flower Declaration” focused on Colombia was seen as discriminatory by Asocolflores and thus hit an emotional nerve. And as we will show later, there was an acute sense of “locality” and “particularity” that led Asocolflores to believe they had to “take up the work themselves,” instead of being dragged along by international stakeholders on how they should be going about their business. But regardless of this, the direct consequence of this decision was heightened pressure and a loss in exports to Germany.¹²

Creating a homegrown Colombian code

This initial “episode” notwithstanding, an important level of awareness had been raised amongst certain “forward-thinking” flower companies in Colombia, especially those exporting to Germany, of the importance of social and environmental impacts of their business. Five flower export companies (for whom Germany was an important market) came together in 1994, and four more quickly joined, to create a code of conduct of their own, which they named Ecoflor.

But since Asocolflores had not accepted BGI’s terms, it was not initially invited by these nine companies to participate. “We understood this reaction.... After all, it was their market and they needed to protect it,” says Isaza. The need was also greater since by then, according to Asocolflores, these demands had started to “spill over” to other places such as Austria and England. “This group of companies was also particularly progressive in their social and environmental performance,” asserts Isaza, “and thought that by coming together they could create a model which could eventually become a model for the whole of the sector, with the help of Asocolflores.”

The focus of Ecoflor was to address the challenges raised by the *Blumen-Kampagne* by first providing indicators to measure performance. “Only with these indicators could one determine whether a particular company was doing ‘poorly’ in social or environmental terms,” explains Pizano. A small committee helped to collect and register information on company performance for the purposes of comparison. This also helped to create collective benchmarks for improvement.

Ecoflor was thus, initially, a closed-door initiative. This was a deliberate decision on the side of the companies involved because some thought that it would be beneficial in the initial stages to have a restricted discussion of what the code would look like, what the “principles” would be and their exact wording. This worked well, says Pizano, particularly because, due to the high

level of competitiveness in the flower sector, “getting the representatives of the company to sit and talk about their techniques and share information was in itself a landmark.”

In addition, as Pizano explains, involvement from top-level management was crucial in this initiative. Initial buy-in was secured because the presidents or general managers of the companies were directly involved. “In most cases, engaging in these initiatives requires infrastructural changes, localized investment, hiring more staff... Thus we needed to count on people who could make decisions,” asserts Pizano.¹³ Company presidents made up the Ecoflor Board, and there was a Technical Committee and a Committee on Health and Social Well-being. Contributions from companies covered expenses.

From Ecoflor to Florverde

Eventually word spread that there was a group of companies in the flower sector employing innovative strategies in these areas, and soon other companies became interested in following in their footsteps. In 1995, Asocolflores started to think about creating a similar initiative; their approach, however, was not merely to comply with the checklist, but rather to go beyond it and make it more comprehensive. For this they studied other environmental certifications and voluntary codes of conduct such as ISO14000 and a Dutch initiative called MPS, which had both been created recently, around 1994, and were being taken up by the global flower industry. They also worked closely with Ecoflor. According to Pizano, “the then-president of Asocolflores would come to our meetings and we would share information with her.”

One decision was for the new code, named Florverde, not to be a “seal of approval,” at least initially, but to make it instead into a training programme for companies and a learning forum for Asocolflores itself about the challenges within its own sector. According to Isaza, Florverde was also the first label

to include both social and environmental issues, since MPS was exclusively environmental at that time. He recalls: “We saw this as our chance to tackle questions as of then unanswered: How many unions did we have? What types of contracts existed? Are people really being fired without benefits? Are pregnant women being discriminated against? We had the chance of grasping our own reality.” They also envisioned developing a database, drawing from the Dutch experience, where Asocolflores would record information about these issues received from its member companies and arrive at an accurate “picture” of the flower sector in Colombia. They were particularly interested in gathering substantial information about social issues and not just environmental data because they knew that social problems had given rise to the demands in the first place. Asocolflores says it still maintains the database and keeps it updated.

Importantly, foreign, market-related demands were not the only driver in the design of the initiative; corporate values also mattered. Florverde was created as a tool for diagnostic and data collection “for companies by companies,” which, as Isaza points out, “force[d] companies to take a look at their own internal policies and practices,” and if needed, to implement changes. Another purpose, continues Isaza, was “to transform a threat into an opportunity,” that is, to foster improved understanding of the weaknesses and strengths of the sector so as to facilitate identification of aspects that needed to be worked on, and thus make the companies more competitive globally. In addition, the evolution of domestic regulation, particularly since 1993, has also helped to promote the adoption of environmental and social “best practices.”

Given the initiative’s popularity, the question of what to do about Ecoflor arose. The two codes were similar and, to some extent, competing. According to Isaza, Florverde’s

reputation grew to the point that Ecoflor’s promoters themselves suggested both programmes could merge, with Asocolflores acting as the Secretariat. In addition, Asocolflores had better logistical capacity than the small group of companies running Ecoflor.

Nevertheless, merging both initiatives entailed long discussions. As Isaza explains, “It was very difficult. We had to form working groups with company experts for every topic: water, health, hiring practices, everything. These were people who knew about these topics and were interested in helping.” The purpose of these working groups was to create a consensus between all the companies on language and criteria. All in all, the period of negotiations between Florverde and Ecoflor lasted one year, and in 1997, Ecoflor was folded into Florverde.

Asocolflores member companies are invited to join the programme, although it is not mandatory. So far, 167 farms (out of 300) have signed up. The most important incentives are usually the need to meet growing market expectations and an awareness of the financial and other benefits of operating more efficiently.

Asocolflores’ staff points out that often the reason for some companies not to join Florverde is cost-related. Most companies do not see a problem in paying a yearly Florverde membership fee (around USD2,000), in addition to what they pay to be part of Asocolflores.¹⁴ The Florverde fee entitles companies to receive as many advisory sessions or workshops as they need, which are given by the initiative’s technical team. But some companies are more reluctant to pay for the additional expenses generated by the requirements of the code, such as investment in infrastructure (changing rooms, restrooms, and lockers) aimed at improving working conditions. “We still have to work on this. Clearly, if this is happening, it is because there is still work to be done on making the case for companies about the benefits of the programme, including financial ones,” explains Isaza.

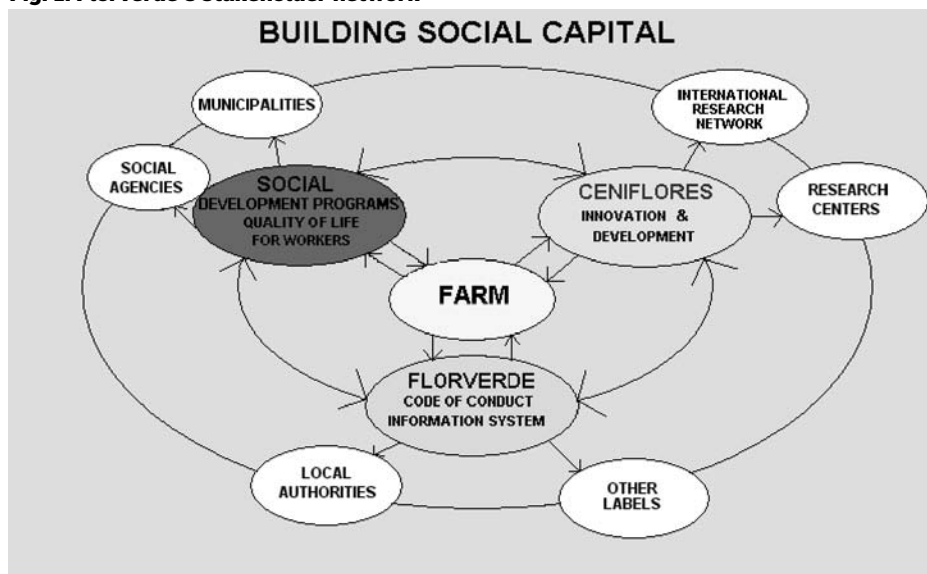
Certification

Florverde was initially conceived as a training programme. However, in time it was decided that it should also include some sort of certification mechanism. “At first we chose to wait until there was one worldwide label. By the late 1990s, there were two labels we knew about: MPS (promoted by Dutch producers) and the Flower Label Programme (which was a product of the German advocacy efforts). But by 2002, instead of consolidation, there had been a proliferation of other codes, so we thought it was time for us to start moving forward,” asserts Isaza.

The solution was to find an external verifier, the Swiss audit firm Société Générale de Surveillance (SGS). “Going down this road was difficult, especially because there is no ‘ISO-like’ regulation to refer to when coming up with a certification scheme”, explains Isaza, “so almost anyone could create a seal. Our idea was thus to create a demanding seal that could eventually garner legitimacy with an external third party as verifier.” By early 2007, 86 Florverde member companies had been certified and 53 were in the process of certification. Together, according to Asocolflores, these make up 47% of Colombia’s total cultivated areas.

The code itself is subject to constant review and improvement. Between 1998 and 2002, it was updated every year to adjust for certain issues or include new topics. But between 2002 and 2005–2006, it remained unchanged because, as Isaza explains, “You cannot change something so often because people will get confused and lose their north.” An important point in the process of updating the code is the fact that, according to Isaza, “external stakeholder expectations are fully observed. We are not just considering our own interests as a sector or the interest of individual companies, but also international standards relevant to our case. We know that if we did not do this we would not be able to position Florverde in the global arena of labels,” explains Isaza.

Fig. 1. Florverde’s stakeholder network



According to Ariosto Arévalo, member of the Florverde staff, “Florverde is now evolving into a comprehensive Management System. Our aim is not for it to become a certification that companies can get one year and then forget about the next, but rather something that changes their corporate culture.... We work hard with managers on assuming leadership of these initiatives and to supervise performance.”

Supply chain

Florverde also has an impact on the supply chain of its member companies because in “cleaning up their act” they have to make sure their suppliers are complying with the standards they are subjected to. “A few years back our suppliers did not even know what was required of them,” says Arévalo. Thanks to the programme, sub-contractors and other companies are expected to document every one of their practices under these areas and are subject to scrutiny.

Indicators

Another highly innovative aspect of Asocolflores is that, at the request of member companies, the Florverde team developed approximately fourteen quantitative and qualitative “indicators”

to measure company performance and compliance. These were also discussed and negotiated until a consensus was forged. They are produced through the information that Asocolflores obtains monthly from reporting companies. Asocolflores then sends them back a statistical assessment, which helps them to know “where they stand.”

Based on this information, the Florverde team designs its training strategies for companies and benchmarking. “With the processed feedback they get from us, companies are supposed to set their own goals for improvement,” explains Arévalo. These indicators were discussed for almost six years by representatives of the companies, and the process of reaching consensus is still seen as ongoing. International standards and external stakeholder expectations also guide Asocolflores’ work on designing these indicators.

Indicators are powerful tools not only for internal learning and development, but also when addressing external audiences. Part of the controversy over the demands of activist groups in the early 1990s was that, according to Asocolflores, they did not take into account sufficiently the technical requirements of the industry and did not provide performance measures.

Compiling statistical information, however, especially on social issues, becomes difficult because typically only a portion of the companies are willing to share their information. “This is a problem, but we don’t want to assume a ‘police’ role. We want to motivate companies to report. We are now looking at ways of modifying our indicators to address this problem,” says Isaza. Asocolflores’ perception is that poor reporting habits are directly linked with the lack of agreement on indicators. “So now we are going step by step, asking: Which indicators are okay with you? Why? Which are not? Why? And seeing where this takes us. We want companies to identify with them and understand them,” explains Isaza, “because generating consensus about indicators leads to ownership by companies, which is crucial to the initiative.”

Governance

Finally, some issues of governance that had not previously been dealt with are now being addressed. Since 2003 Florverde has been externally certified. In addition, in early 2007, it issued a set of rules for compliance with an international model named EurepGAP, as a way of drawing international legitimacy and recognition.¹⁵ According to these rules, certified companies that stop complying with substantive aspects of the code are first warned, then suspended and finally expelled.

Broadening the agenda: Addressing unions

According to Asocolflores, through its focus on benchmarking, dissemination of best practices and assistance to its affiliates, Florverde has contributed to improving the social conditions of workers and reduced the negative environmental impacts produced by the industry in Colombia. For instance, among its concrete results, Asocolflores mentions that it has helped to eradicate child labour in the industry; to drastically reduce the use of pesticides; to ensure that all workers of Florverde

signatories enjoy full social security; and to fully update company health and labour risk assessments, which are crucial to understanding their problems and mitigating them.

But despite ongoing efforts by the government and businesses in Colombia, labour conditions remain an acute cause for concern, especially in the agricultural sector. Although they vary from sector to sector, the concerns usually relate to low wages (even below the legal minimum), long working hours and lack of respect for freedom of association.¹⁶

Such pervasive concerns led Asocolflores to figure out how to incorporate and observe ILO standards more thoroughly within Florverde. “Since Florverde had been a business initiative, we understood social issues differently, usually as fluid internal communication between managers and their workers. Also, because we had not encountered particular cases, issues such as poor treatment of employees were not evident to us. Nevertheless, we knew we needed stronger companies with better working relationships,” asserts Isaza. These concerns are also seen as important because they are increasingly part of market expectations around the world.

Isaza mentions two reasons the topic of unions became important, one external and the other internal. “The former was that our strategy had always been to become an internationally recognized label; but since freedom of association was already included in our national legislation, it was not initially featured as a category of its own in Florverde. Still, we realized that in order to meet international expectations, it needed to be there explicitly,” he explains. The latter is related to the need to address the problems of the sector, which were briefly outlined above.

“We are well aware of the seriousness of the topic, so we have preferred to see this new phase as part of a process. This has given discussions on

the issue the flexibility they need, and additionally it has given companies an opportunity to improve their communication practices and promotes internal understanding of the issues,” concludes Isaza.

Among the many labour standards, freedom of association is one of the most difficult ones to address in Colombia. In the midst of armed conflict between the state, the guerrillas and the paramilitary, labour unions in Colombia have been frequent targets of illegal armed groups, either by way of threats, infiltration or co-opting of their members. Certain guerrillas such as the National Liberation’s Army (ELN) and the Population Liberation’s Army (EPL, now demobilized) are especially known for infiltrating unions as one of their political strategies.

Unionists from many sectors in Colombia have also been victims of targeted murders and other abuses connected to violent conflict. The paramilitary have targeted unionists because unions in Colombia have been historically considered to be left-leaning and to sympathize with the guerrillas. This same factor has widened the gap between businesses and unions, since the former see the latter as political platforms for guerrillas, sharpening mutual distrust.¹⁷

According to the *Financial Times*, Colombia is considered to be the “most dangerous country for unionists.”¹⁸ In 2002, out of 213 murdered union members around the world, 184 were Colombian, and in 2005 the NGO *Escuela Nacional Sindical* (National Union College) registered 444 human rights violations against trade union members, including illegal raids, threats, disappearances, forced displacement, torture, kidnappings and murders, down from 688 the previous year.¹⁹

Structural divisions within the union movement also contributed to a difficult relationship with private companies. In Colombia alone, 2,768 unions exist, covering roughly 853,000 workers.²⁰ In turn, individual unions

are divided into three major union “federations”: the larger *Central Unitaria de Trabajadores* (CUT), the *Confederación General del Trabajo* (CGT) and the *Confederación de Trabajadores de Colombia* (CTC). These often work together in negotiations with the government, such as on yearly definitions of minimum wages, but sometimes have different views on other issues.²¹

The flower sector has an unusually high rate of unionization for Colombia: 13% of its workers are union members, compared to the national 5% rate. The industry has therefore not been exempt from troubled relations with labour unions.²² According to NGO reports, there have been alleged abuses or disrespect by companies of the right to organize and bargain collectively, such as the promotion of anti-union campaigns; establishment and support of “corporate” unions (versus “independent” labour unions); discouragement of collective bargaining agreements through “collective pacts” and special benefits to non-unionized workers; firing of union leaders; opposition to legal registration of unions; blacklisting of unionists; and refusal to reintegrate fired union leaders despite court orders and even the shutdown of companies.²³ However, according to Isaza, no cases of murders of unionists in the flower sector have been registered.

Thus far most public union-related complaints in the Colombian flower industry have been raised against subsidiaries of multinationals located in the Bogotá Savannah (where around 75% of the country’s flower plantations are located).²⁴ Untraflores, Colombia’s most radical labour union in the flower industry, has established good links with local and international NGOs, such as *Corporación Cactus* and *US/LEAP*, and is very active in communicating alleged abuses through its bi-monthly newsletter *Florecer*.²⁵ Asocolflores itself has also been subject to criticism by Untraflores, which claims that it “supports the creation of corporate unions in order to deny the authentic spokesmen of the labour movement their right to engage in plea bargaining,” among other issues,

and by international NGOs, such as *War on Want*.²⁶

Against this backdrop, Isaza explains that “Yes, of course labour union-related issues are a tough subject.” However, he continues, “we have always believed that freedom of association is an issue that company managers and shareholders need to tackle up front. For example, the companies that had unions commented to us that working with unions could be beneficial for them. For example, if they needed to approach their labour force for a particular reason, it was easier to speak in amicable terms to union leaders who could then channel messages to their *compañeros*,” he explains.

Despite this initial common ground, there was no consensus among Asocolflores member companies on how to specifically tackle the topic for inclusion in Florverde. “You have to understand that a union in Colombia, being in the midst of armed conflict, is different to a union in Europe, so there were fears and sensibilities to overcome,” says Isaza.

“First, we needed to speak the same language and ask the basic questions: What is freedom of association? How do we tackle it? How do we assess whether it exists and measure it?” says Isaza. After a whole year of discussions, we decided to include union issues in Florverde, but as Isaza explains, “the fact that there is polarization made us realize that we needed to go step by step and manage expectations.” To work on the issue, Florverde also created a special committee composed of manager-level staff.

Respect for freedom of association is now part of the Florverde’s social “checklist,” (see Fig. 2) and according to Asocolflores, they have also run pilot programmes with a few of the companies to see how companies adopt them. This has included surveys of union members. As such pilot work develops, new contents may be added, and a new indicator on the issue will also be created to measure performance and foster improvement. “Either way, we think that the most important first step in the issue is to promote communication between the

managerial level and the employee level. We’re promoting ‘healthy companies’ in the sense that we believe there must be clarity between employers and employees about company policies, business directives, the future of the company, etc. The aim is to create a constructive relationship between all parties.” Asocolflores has also decided to turn to international partners to engage in dialogue about these subjects and see how they could go about them in a better way. “For example, we have spoken to the Ethical Trade Initiative (ETI),” says Isaza.²⁷

See on next page, Fig. 2. *Labour standards required by Florverde*. In parallel to the inclusion of these labour standards in Florverde, Isaza adds that Asocolflores has also engaged in the promotion of basic labour rights among its associates, for example through workshops on collective bargaining for managers, in collaboration with ILO/USDOL projects in the country, with the participation of union leaders. Moreover, Asocolflores, along with its member companies, has also participated in workshops by the Ministry of Social Protection and informs its members about changes in labour legislation, court rulings and related documents issued by the Ministry.

Challenges ahead

In recent years, there has been widespread debate about the potential impacts, both positive and negative, of conducting business in weak governance zones and in countries suffering from ongoing conflict or grave human rights situations. Such discussion has proven pertinent to Colombia, where increasing attention is being placed on the potential of the local private sector to prevent or ameliorate decades-long conflict and to help build lasting peace. In this sense, Florverde may be seen as an example both of how the Global Compact principles can be applied on the ground, and as potentially contributing to the “greater” goal of peacebuilding in Colombia.²⁸

Thus far, one of the most valuable outcomes of Asocolflores’ initiative (and Ecoflor before it) has been the achieve-

No.	Checklist	Criteria to be met	Level
2.1	Are all workers over 18 years of age?	The company must prevent the recruitment, under any contract modality, of people who are younger than 18 years of age at the commencement of duties. The presence of people younger than 18 is justifiable only in family events, training programmes or welfare programmes such as day care centers. In all these cases proper preventive measures must be taken in order to avoid exposure to risk related to activities that are typical of the process carried out on the premises.	1
2.2	Is the normal working week a maximum of 48 hours?	The maximum number of normal working hours per week is 48. Additional working hours are considered overtime or extra hours. If the company works the maximum working week currently allowed by law, it must ensure that: a) at least two hours in of the working week for each worker are exclusively devoted to training, recreational, sporting or cultural activities, according to timetables and action plans; b) in case these two hours are not employed each week for the above-mentioned purposes, they are accumulated up to one calendar year; and c) employees attend the programmed activities.	1
2.3	Are procedures to impose sanctions being carried out?	The company must: a) establish in its internal labour regulations the disciplinary process and sanctions applicable to the fault committed; b) have disclaimer minutes that have at least the company's letterhead, date, fault description, the option to call witnesses, literal questions and answers, and the parties' signatures; and c) inform the worker of the sanction through written notice.	1
2.4	Is the maximum limit of 12 hours of overtime per week being observed?	The company must provide evidence that it does not exceed the maximum limit of overtime work in a week through: a) providing payment records for overtime work, based on payment receipts or payroll records; b) issuing the current regulation for extra hours via the relevant authority and displaying them in two areas on the company premises; and c) maintaining overtime record tables, signed by the worker, that specify the worker's name, schedule, amount of overtime work and task carried out.	2
2.5	Is freedom of association of workers respected?	a) The company must keep written evidence that there are more information and participation mechanisms available to workers, such as: > a system to register workers' complaints and claims without reprisal; > primary groups or teams that cover the entire workforce; > committees open to workers' participation (e.g., Copaso, brigades, work harassment, complaints, and sports); and > other mechanisms open to participation by workers in the company (workers' funds, cooperatives, etc.). b) Companies with a workers' union must keep: > copies of collective agreements; and > copies of pay slips showing the deduction of union fees.	1
2.6	Are discrimination and verbal and physical abuse to workers banned in the company?	The company must: a) ensure there are no cases of work harassment or abuse, work discrimination or obstacles to workers' development, unequal treatment or lack of protection to workers; b) give evidence that it has undertaken training and information sessions on these aspects and that workers are well aware of them; and c) have a bipartisan committee that includes both workers and administration to handle any cases of discrimination, abuse, etc.	1
2. Basic Regulations—Fig. 2. Labour standards required by Florverde			

ment of consensus and collective action among the companies on human rights. They have played a key role as facilitators and acted as “norm entrepreneurs” within the sector. A combination of internal and external factors led the association to deepen its involvement in these issues.

But despite the important road it has traveled, Florverde still faces crucial challenges. As the experience of the Voluntary Principles on Security and Human Rights has shown, the trend set by this new generation of codes of conduct is that, in addition to having the support and will of companies, it is necessary to engage in dialogue and consultation and to reach formal or informal agreements with other stakeholders, such as NGOs, labour unions, and even governments, in order to garner legitimacy and ensure effectiveness. Often, a long time is needed for trust to be built before arriving at this sort of dialogue. First, willing interlocutors need to find ways to come together, and then several encounters are usually needed to dispel prejudices, to find common ground and to adjust expectations. The participation of mutually accepted external or independent facilitators that offer certain skills can often be helpful.²⁹ Florverde now needs to go down this road, and Asocolflores should work toward engaging in constructive dialogue with those stakeholders, looking to overcome traditional ideological gaps and pave the way for joint work with these stakeholders on problematic issues.

Another important issue is the persistent lack of overarching, international, legally binding regulation on the topic. Whether such regulation is more desirable than voluntary initiatives and standards is still a matter of expert debate. Nevertheless, proactive companies and business associations wishing to bridge that normative vacuum have a concrete option in the creation of voluntary codes, as is the case of Florverde. But a question of effectiveness persists: While many experts support the proliferation of such voluntary initiatives, others perceive that it could lead to overburdening companies and eventually undermine their effectiveness and sustainability.

Moving forward, Asocolflores must carry on with the work it has advanced on “broadening the agenda.” Florverde is an interesting example of how the corporate social responsibility agenda has expanded over time in the Colombian context: It has gone from tackling standard labour, health and environmental issues to gradually lending attention to more difficult topics, such as respect for unions. Florverde now needs to take forward its pilot work and not only seek consensus among companies but also converse with unions and NGOs about key issues, and sustain implementation. The value of the initiative will be proven only through the concrete results it is able to bring about in the coming years.

Endnotes

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- 12 OECD, “Eco-labels for cut flowers.”
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- 15 See <http://www.eurep.org>.
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Eskom and the United Nations Global Compact principles on human rights

Christopher Sutton*

Human rights issues addressed

- Diversity and/or non-discrimination in employment
- Supply chain

Human rights management practices discussed

- Getting started
- Strategy
- Policy
- Processes and procedures

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Abstract

This case study analyses the way in which the South African energy giant Eskom has integrated principles of human rights into its core business strategy in a rapidly evolving and demanding post-Apartheid environment.

In particular, this study addresses the origins and evolution of the company's preferential procurement policy from its nascent beginnings to the present day. Eskom's emphasis on developing black-owned and managed businesses, or Black Empowerment Enterprises (BEE), has arguably served as a key model to a

South African government and private sector focused on continued economic growth. The company's focus on developing a diversified base of suppliers not only represents a business opportunity for Eskom, but also a chance to demonstrate an explicit commitment to Global Compact Principle 6, which holds that companies should endeavour to eliminate discrimination in employment and occupation. Eskom's policy to develop Black Empowerment Enterprises that permit all South Africans to actively participate in a growing economic environment also touch on Principle 1, which asks businesses to support and respect the protection of internationally proclaimed human rights.

Company profile

Eskom is a vertically integrated organization employing approximately 30,000 individuals. It was founded in 1923. Eskom generates, transmits and distributes electricity to South African consumers and businesses, and purchases and sells electricity from and to other southern African countries. Today, Eskom ranks among the ten largest electricity providers in the world in terms of capacity, and eleventh in terms of sales. Eskom is also a State-Owned Enterprise (SOE), whose interests are represented by the South African Ministry of Public Enterprises. The Ministry selects the Chief Executive and all members of the Board of Directors, while the Executive Board is vested with the responsibility of business implementation. The company is completely self-financing and thus receives no financial support from the South African government; indeed, it pays yearly dividends to the government.

Human rights and the South African context

To understand Eskom's status and position at the time of its formal commitment to a preferential procurement programme, it is important to recount recent South African history and the end of Apartheid. Apartheid is a system of institutionalized racial discrimination, which is thoroughly incompatible with the principles of the Universal Declaration of Human Rights. During Apartheid in South Africa, numerous laws enabled the ruling white minority in South Africa to segregate and exploit people of African, Asian and mixed race descent, who were collectively termed "black." Black people were systematically denied their civil, political, economic, social and cultural rights.

In March 1992, the country held its last white-only referendum in which white South Africans gave the government permission to work with black leaders and promulgate a new constitution free of the codified racial discrimination endemic to South African society. In 1994, the country held its first-ever general election in which black citizens could vote.

The election brought Nelson Mandela to power and the resulting unity government soon produced a comprehensive plan that enabled greater economic and social development among South Africa's overwhelmingly poor black population. Blacks in South Africa previously had extremely limited access to capital and lived largely in underdeveloped rural areas, often without basic provisions like electricity and running water.

* Christopher N. Sutton is a candidate in Public Policy at the Harvard Kennedy School, focusing on the role of business in the economic and human development of emerging economies.

The 1994 Reconstruction and Development Programme (RDP) instituted by the new South African government outlines the government's development priorities while emphasizing the importance of high economic growth to the creation of a more politically and economically equitable state. More specifically, the government committed to focus on capital investments in order to both uphold new constitutional tenets and also spur development. The development of a larger, more sophisticated power grid capable of lighting the state's poorer and rural areas thus became a key aspect of the government's overall development plan. At the same time, the RDP recognized the economic faltering that characterized the preceding twenty years of white rule. In addition, the RDP acknowledged the need to encourage the growth and integration of private sector enterprises owned and managed by previously disadvantaged groups in order to nurture the South African economy.

The United National Global Compact and Eskom

Eskom developed its preferential procurement process before the United Nations created the Global Compact (GC), though its BEE policies demonstrate the commitment Eskom has to creating fairer labour practices free of entrenched racial discrimination. Indeed, this commitment to a socially and economically advanced society emanates from those at the top echelon of the company, as captured in the Eskom Vision Statement: "Together building the powerbase for sustainable growth and development."

In interviews conducted for this case study, Eskom leadership reinforced the sense that in the early 1990s South Africans believed that preferential procurement would be good for the country and help to redress the situation of substantive inequality that remained in the wake of Apartheid. In light of the political currents and strong national emphasis on rural and black-oriented economic development, such notions became policy.

<i>Together</i>	One unified Eskom, working together in partnership with others
<i>Building</i>	Planning for the future, building South Africa's economy
<i>Powerbase</i>	Providing the electricity foundation for positive sustainable development
<i>Sustainable</i>	Ensuring continued delivery on economic, environmental and social outcomes
<i>Growth</i>	Empowering South Africa, its people and the economy
<i>Development</i>	Securing a brighter future for all and integrating the first and second economy
Table 1: Explanation of each key term in the Eskom Vision Statement	

In 2004, the Department of Public Enterprises—the sole shareholder of Eskom—formally refocused state-owned enterprises as a catalyst for economic development as part of the government's Accelerated and Shared Growth Initiative for South Africa (ASGISA), which aims to halve poverty in South Africa by 2014. Eskom has since revised its business model to develop an enterprise capable of meeting the current and future needs of a changing customer base by focusing on its core business—generating, transporting, trading and retailing energy, while leveraging the associated economic benefits to further develop black-owned and managed businesses in South Africa.

Implementation and development of policies

Eskom has explicitly stated that its policies and procedures are developed to ensure compliance with South African legislation, including the Constitution, which specifically provides for the protection of human rights. Eskom identified the need for Black Empowerment Enterprises in the early nineties, though at least one senior level manag-

er described its beginnings as "vague." The shift in South African society had changed the socio-economic landscape in the country as black citizens gained full legal equality and an opportunity to reach equal economic status as well.

This shift was not lost on Eskom, which understood potential changes in the political environment in South Africa and was not ignorant of the government's emphasis on bringing electricity to previously underserved communities. While the government did not bind Eskom to the tenets of the RDP, the change in the business landscape necessitated a shift in strategy to match the developing political and economic environment.

In 1994, Eskom established a formal BEE policy that culminated with the creation of a Small Medium and Micro Enterprise (SMME) Development Section. Eskom tasked this SMME Development Section with developing a system by which such enterprises could effectively participate in the tendering (contracting) process. Within a year of research and stakeholder dialogue the Section circulated its first major working directive, "The Development and Support of Small, Medium, and Micro Enterprises by Eskom Pro." This directive required that all sections and services of the company reach a 25% procurement level from SMMEs within one year and at least 50% in each year thereafter.

Eskom regularly sources goods and services from contractors for such things as legal and management consulting, graphic design, coal, food products, engineering works and electrical contracting. But in the years immediately following Apartheid, there existed few BEEs able to meet Eskom standards. As a result of this lack of experience and skill in prospective BEEs, the company set out specific procedures and processes in order to promote tendering from existing BEEs and develop the capacity of emerging organizations. In addition to transparently advertising its tenders (contracts), Eskom developed other capacities, such

Problem facing prospective BEEs	Eskom's response
<i>Difficulty in securing financial capital</i>	<ul style="list-style-type: none"> • Reducing lag time in payment of invoices from industry norm of 120 days to 30 days • Assistance in securing capital
<i>Small scale of new BEEs</i>	<ul style="list-style-type: none"> • Breaking up of traditionally large contracts into smaller parts to facilitate BEE participation • Setting aside contracts for bidding only by BEEs • Price matching: In instances where a white-owned enterprise has provided the lowest price, Eskom reserves the right to offer contract to BEE if it is able to meet this lowest price
<i>SME confusion over Eskom standards and requirements</i>	<ul style="list-style-type: none"> • Establishment of Tender Assistance Centres, which offer technical assistance relating to tenders, including information regarding procurement mechanisms, standard terms and conditions, price schedules, invoicing and payment processes, delivery, lead time and delivery rate schedules
<i>Lack of professional business experience and sustainability</i>	<ul style="list-style-type: none"> • Establishment of Tender Assistance Centres, which conduct training and provide assistance to BEEs after awarding contracts to qualifying companies. Training topics include: financial arrangements, negotiations to obtain competitive prices from raw materials suppliers, sharing resources, management training, marketing, managing working capital, factory layout and production planning, procurement training, productivity improvement, cost accounting

Table 2: Eskom responses to key BEE problems

as the Tender Assistance Centers outlined in Table 2, to assist emerging BEEs.

Initially, some resistance was encountered internally, as many of the white managers at the time were reluctant to change old processes. However, efforts were undertaken to explain to all divisions the procurement programme and its benefits, and the managers were won over.

In later restructuring of the company, line management took control of preferential procurement. Because this effort took division resources away from their core duties, the restructuring led to a de-emphasis of the developmental focus of preferential procurement. However, the new structure offset this potential weakness by bringing Eskom's largest subcontractors under scrutiny. These

organizations had previously escaped notice from the SMME Development Section and company executives for their contracting policies and procedures. As a result, Eskom began evaluating its largest suppliers—including those based overseas—according to their practice of black empowerment.

In 1996, the government introduced its "10 Point Plan," spelling out a comprehensive points-based system by which companies could implement BEE policies along their respective supply chains.

Instead of adopting the non-binding government findings, Eskom's Board of Directors called for a simplification of the system as the company drew up its overall preferential procurement policy. The points-based system developed by Eskom measures suppliers and prospective

BEEs in terms of black ownership, black management, skilled black personnel, procurement from other BEE suppliers, black female managers, disabled black employees and other initiatives that Eskom regards as significant to its procurement programme.

The BEE rating criteria for supplier and tender evaluation is shown in Table 3. In order to qualify as a BEE supplier, a company must score at least one point each on black ownership, black management, skilled black personnel, procurement from other BEE suppliers and black female management.

Incentivization and accountability

In order to facilitate a corporate culture that considers BEE progress as core to its mission, Eskom holds all relevant procurement, operational and management staff accountable for attention to BEE activities in their respective sections. Accordingly, Eskom includes a section on preferential procurement on the annual appraisals of relevant staff. A senior level manager was vested with overall responsibility for reaching preferential procurement goals. The responsibility at the corporate level for BEE policy rests with the Corporate Black Supplier Programme Manager. At the group or divisional level,

	1 point	2 points	3 points
<i>Black ownership</i>	10% to <20%	20% to 50%	>50%
<i>Black management</i>	20% to <35%	35% to 50%	>50%
<i>Skilled black personnel</i>	20% to <35%	35% to 50%	>50%
<i>Procurement from other BEE suppliers</i>	10% to <20%	20% to 25%	>25%
<i>Black female management</i>	1% to <5%	5% to 10%	>10%
<i>Other BEE initiatives</i>	Discretionary	N/A	N/A
<i>Disabled black personnel</i>	Discretionary	N/A	N/A

Table 3. Eskom's BEE rating criteria for suppliers

which includes electricity generation, transmission, and distribution, the individual group or division is responsible for meeting company BEE procurement goals.

Conclusion

In terms of overall procurement, Eskom continues to expand its reliance on BEE suppliers. In 2006, the company purchased goods and services worth approximately R11.4 billion, a figure ten times that of its overall BEE procurement in 1998. Overall, the company has exceeded its BEE projections by more than 30%. Its supplier database of black-owned and controlled companies lists 14,000 BEE businesses of all sizes. The company utilizes, on average, approximately 30% of its registered BEE suppliers at any one time. In 2006/2007, the company projects that it will direct approximately 67% of its discretionary expenditures toward BEE suppliers, of which 18% will go to black women-owned businesses.

The policies have helped previously disadvantaged individuals and communities to participate in the mainstream economy and to acquire necessary business and technical skills. In so doing, it helps them to realize core economic, social and cultural human rights.

Eskom is proud of the impact that its BEE policies have had on its business partners: these policies have helped to change local ownership and management of large foreign companies. Demonstrating the impact that a corporate customer can have on its partners, some of the world's largest companies have been motivated to sell part of their SA operations' equity to BEE firms in order to remain Eskom suppliers.

Eskom considers that the success of its BEE policies results from the leadership and support by company executives and the Board of Directors and also because its increasingly well-articulated objectives and mission fit as a leader in the development of the modern South Africa. Furthermore, the company's strong focus on supplier

development, as evidenced by the advent of pre-tender briefings and more comprehensive offerings of Tender Assistance Centres, enable emerging suppliers to ensure their own sustainability. Because traditional financial institutions consider new suppliers a credit risk, Eskom often finds it necessary to undertake long-term contracts with its BEE suppliers.

Eskom continues to face challenges. The company has had to come to grips with "fronting," whereby contracting companies misrepresent themselves to Eskom in order to win points in their bids for contracts. Eskom has attempted to blacklist fronting companies, but these companies often emerge as other state-owned enterprises under a different name. While the company has limited resources to audit each company competing for contracts, it has come to rely on targeted investigation and self-policing by competitor contracting companies.

At a briefing in June 2006 on Eskom's BEE preferential procurement, Vule Nemukula, General Manager of the Eskom BEE Procurement and Supply Chain, highlighted another challenge that continues to confront the company's implementation of its BEE policy: the lack of skills among many BEE suppliers, especially when it comes to the most technical services that are procured. A high percentage of Eskom's spending is on these types of services. The efforts outlined above are directed at overcoming this challenge.

MAS and the Women Go Beyond programme

Noshua Watson*

Human rights issues addressed

- Child labour
- Social investment and community development
- Women's rights
- Working conditions

Human rights management practices discussed

- Getting started
- Strategy
- Policy
- Processes and procedures
- Communications
- Training

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Company profile

The setting for the MAS Women Go Beyond

The MAS Women Go Beyond Programme

Conclusion: Tools for ethical and strategic change

Abstract

This case study describes the MAS Women Go Beyond employee empowerment programme that was initiated by MAS Holdings, a Sri Lankan intimate and active apparel manufacturer.

Starting in 2003, MAS introduced the Go Beyond programme at apparel plants in Sri Lanka, India and Vietnam to provide its seamstresses with career development opportunities, health and lifestyle education, awards and local community development programmes. By far the majority—92% of MAS employees are female, just as in the apparel industry as a whole.

Before the Go Beyond programme, the variety and funding of classes and community participation were at each plant manager's discretion. Go Beyond created a framework to standardize, improve and track the results of the employee programmes at each plant, with a particular focus on women's issues. The company has ethical standards that predate the Go Beyond programme. These explicitly list the Global Compact Principles and UN human rights standards as guides for the company's conduct (see Annex).¹ The Go Beyond programme identified where the principles were already in place and improved their application in other areas. As a result, it converted a company culture of "doing the right thing" into a systematic effort not only to avoid potential abuse and complicity

in an industry known for labour violations, but to actively promote human rights. The Go Beyond programme emphasizes Global Compact Principles 1, 5 and 6.² Enjoyment of a wide range of human rights is enhanced through the Go Beyond programme, including the right to just and favourable working conditions,³ the right not to be discriminated against,⁴ the right to the highest attainable standard of health⁵ and the right to education.⁶

As a manufacturer for major retail brands, MAS is sensitive to its clients' need for ethical and transparent sourcing in order to protect their brand reputations. MAS management was also encouraged to develop Go Beyond in order to turn its "sweatshop-free" reputation into a competitive advantage that differentiates it from other apparel manufacturers. This study thus also illustrates the business case for embedding human rights within a company's management practices.

Company profile

Founded in 1986 and headquartered in Colombo, Sri Lanka, MAS Holdings operates 34 intimate and active apparel, fabric and accessories plants in seven

* Noshua Watson is a doctoral student in management strategy at INSEAD, Fontainebleau, France. Prior to attending INSEAD, Ms. Watson was a reporter at *Fortune* magazine in New York. The complete version of this case study, including references and additional annexes, is available on the UN Global Compact website at www.unglobalcompact.org. This case is based on interviews and data collected for an INSEAD case study (*MAS Holdings: Strategic Corporate Social Responsibility in the Apparel Industry*, European Case Clearing House, 2006) and an article about MAS Holdings for *World Business* magazine ("The Ethical Bra," October 2006). The INSEAD case study was prepared under the supervision of Jonathan Story, Professor of International Political Economy at INSEAD and Shell Fellow of Economic Transformation. In July 2005, an INSEAD research team visited MAS headquarters in Colombo, Sri Lanka, and MAS plants in Pannala, Horana and Hanwellla, Sri Lanka, to interview managers and plant workers. The visit was funded by a grant from the INSEAD R&D Committee and ground transportation and clerical assistance in Sri Lanka were provided by MAS. Other interviews included representatives from the Colombo office of the International Labour Organization, Clinch (Sri Lanka), MAST/Limited Inc., Gap Inc. and JW Thompson Advertising (Colombo). Follow-up research included phone interviews and in-person meetings in Fontainebleau, France, in November 2005 and March, August and October 2006.

countries, employing 36,000 people worldwide. MAS was initially formed as a joint venture to manufacture women's dresses with MAST, a subsidiary of Limited Inc, which owns Victoria's Secret. Since then, MAS has built more joint venture plants in partnership with MAST, Triumph, Brandix International (another large Sri Lankan apparel company), Sara Lee Courtaulds, Brandot International and Stretchline Global, a UK elastics company.

Today, the company manufactures bras, panties, briefs, sleepwear and athletic wear along with elastic, fabrics, lace, hooks and other accessories. MAS is the largest supplier for Victoria's Secret and is also a major vendor for The Gap, Marks & Spencer, NIKE, Speedo and Reebok. In 2006, MAS's revenues were US\$693 million and it was the second largest apparel manufacturer in Sri Lanka. Average annual revenue has grown 20%–30% for the past several years.

MAS has won the American Apparel and Footwear Association's Excellence in Social Responsibility Award for Women's Issues, in addition to international safety and productivity awards.

The setting for the MAS Women Go Beyond

Labour rights and the status of women in Sri Lanka

The International Labour Organization has observed that sweatshop abuses are common in the apparel industry. This includes child labour, unpaid overtime work, unsafe facilities and denying workers the right to collective bargaining. These conditions have been attributed both to the separation of apparel branding from production, which is increasingly located abroad, and to the reliance on underage, female and/or migrant workers.

The Sri Lankan government has worked to reduce the severity of these abuses. Child labour has been curbed and the minimum statutory age for employment in the apparel sector is 16.

MAS voluntarily maintains a minimum age of 18. Sri Lankan employers are required to contribute 3% of salary to a trust fund that employees receive when they resign and 8% of salary to the Provident Fund, which employees receive as a lump sum upon retirement. After five years' work, employees also receive a "gratuity" payment of a half-month's salary for every completed year.

In Sri Lanka, 85% of the textile industry workforce is female and approximately 350,000 women work in factories. Sri Lankan women traditionally do not work outside of the home, but high unemployment in rural areas and displacement due to civil unrest have made many young women the family's primary or sole breadwinner.

A well-known stereotype is the "Juki Girl," a woman in her late teens or early twenties who moves from her rural village to the free trade zone and works on a Juki sewing machine in a garment factory to send money home. Living in dormitories away from their families, Juki Girls do not necessarily have access to nutritious meals, reliable transportation or banking services to save their earnings. They are also vulnerable to sexual abuse.

Civil war in Sri Lanka

Ongoing civil conflict in Sri Lanka makes it a challenging environment for the operation of a multinational enterprise. A civil war between the separatist Liberation Tigers of Tamil Eelam and the Sri Lankan government began in 1983. About 64,000 people have been killed in the conflict and 800,000 have been displaced. Both sides agreed to a ceasefire in 2002, but the conflict re-escalated in 2006 after the foreign minister, an ethnic Tamil, was assassinated. The war has devastated the Sri Lankan economy. Sri Lanka's GDP per capita is \$965 per year. However, compared to developing countries with a similar income level, Sri Lanka has a higher literacy rate, longer life expectancy and lower infant mortality.

The MAS Women Go Beyond programme

History of Corporate Social Responsibility (CSR) at MAS

When the Amaleans founded MAS, they wanted to avoid the sweatshop model of production. They installed air conditioning, free company canteens and ample bathroom facilities and built plants in rural villages, rather than in the free trade zones. MAS did not require workers to take pregnancy tests—a common practice in other businesses—and instead provided special attention and extra meals for pregnant women. While the company does not have formal unions, MAS workers elect representatives to Joint Consultative Committees that meet monthly with management to discuss workplace, customer and community issues.

Each plant created its own educational and social programmes open to all employees. One plant offered English classes, reproductive health workshops and leadership training. Another was known for its athletics programmes, employing and subsidizing the training of national, international and even Olympic level athletes. Maternity clinics, vaccinations and personal hygiene programmes were common. At one plant, the senior executives donated their own money each month for college scholarships for village children. After the tsunami, employees raised money and spent their weekends building homes for displaced people. All the plants held Parents Days, when workers' families could visit, tour the plant and meet the managers.

In general, these programmes increased costs 3%–4%, but the higher productivity and lower downtime of employees who embraced the company culture compensated for this. A senior manager estimated that a 1% increase in efficiency or decrease in absenteeism added \$200,000 to the bottom line. The 3% spent on CSR programmes generally increased efficiency by 5%, a \$400,000 net gain in profit.

Developing Go Beyond

In 2003, MAS reformed its Corporate Branding and Strategic CSR Department. The Department proposed that MAS systematize its employee and community programmes and begin to brand itself as an ethical manufacturer. Before the Go Beyond programme, the variety and funding of classes and community participation were at each plant manager's discretion. Go Beyond created a framework to standardize, improve and track the results of the employee programmes at each plant, with a particular focus on women's issues.

MAS examined the best practices in each plant and developed a four-point framework of Career Advancement, Work-Life Balance, Rewarding Excellence and Community Activation (see Annex).⁷ As a standard, each plant site offered English and IT classes and financial management seminars. The Department also recommended creating a name, logo and image for the new programme that had to be translatable into different languages, simple and short, but meaningful—Go Beyond.

The Go Beyond programme emphasizes Global Compact Principle 1, that “within their sphere of influence, businesses should support and respect the protection of internationally proclaimed human rights.” The programme focuses special attention on the rights and treatment of women. In this regard, it also emphasizes Principle 5, the effective abolition of child labour, and Principle 6, the elimination of discrimination in respect of employment and occupation.

MAS launched the Women Go Beyond programme over a six-month period at 17 Sri Lankan apparel plants with high ratios of female employees. MAS created a new position to promote the programme to plant management and workers. The promotional materials included posters, stickers and newsletters in both English and Sinhala, presentations by noted guest speakers with singers and dancers, and even a short film. In 2004, each plant also selected a staff member to be a “Go Beyond Champion” who would supervise the programme implementation.

Outcomes: Internal effects

The reorganization of the plants' employee programmes into the Go Beyond framework proceeded from June 2004 to May 2005. The implementation team launched an external Go Beyond website in October 2004. Based on the programme impact measurement framework that was developed in July 2004, the plants held 290 programmes in the four areas and reached the average worker 3.7 times in the first year.

At the end of 2004, a female employee was selected from each plant to be an “Empowered Woman of the Year.” For the winners, MAS held a gala awards ceremony with dancing troupes from each of the plants, a fashion show of MAS apparel and award presentations by leading Sri Lankan public figures and business people.

To benchmark the programme, MAS hired an external research company in May 2006 to survey 2000 managers, supervisors and workers about their awareness of the Go Beyond programme. 90–92% were generally aware of the programme and 63% of supervisors and 61% of workers knew specific programme goals. After two years, 40% of workers said that the programme was making a genuine difference but the remainder said they had not been affected directly yet. 70% of managers felt that the programmes clearly differentiated MAS from other companies in Sri Lanka, as well as those in China and India.

Over time, Go Beyond was rolled out to MAS plants in India and Vietnam. The Go Beyond Champion network now has 200 members who lead teams at each plant, which include finance managers, production managers and the Go Beyond Empowered Women of the Year award winners.

The implementation of the Go Beyond programme required programme design, technical and relationship-building capabilities. The programme was based on MAS's own best practices as measured against the apparel industry and more importantly, against international labour standards. The implementation also included frameworks for

measuring results, benchmarking and subjecting the programme to external evaluation.

Outcomes: External effects

MAS invited local women's activists and media representatives to participate in the selection process of its “Empowered Woman of the Year.” This exposed the programme to scrutiny from local media and NGOs. National newspapers in Sri Lanka wrote a series of articles featuring the Go Beyond winners. Afterwards, the Sri Lankan government sought MAS's help to start a similar programme nationwide. Several MAS business partners donated funds to strengthen and enhance the Go Beyond effort.

These awards for businesswomen were the initial stage in developing strategic corporate social responsibility projects that MAS has co-branded with its customers. Based on the positive initial results for MAS, The Gap Inc. and Victoria's Secret subsequently began their own initiatives recognizing women entrepreneurs in MAS plant communities. The Gap Inc. committed \$150,000 for three years to fund The Gap Go Beyond programme in Sri Lanka and will expand the programme to other countries once it is operational.

The Gap Go Beyond programme has two phases. The first supports academic talent and provides sustainable development education. In communities where MAS business units are located, students in grades 10 to 13 are provided with a curriculum based on the Youth Xchange programme developed by UNEP and UNESCO. The programme also provides a grant for the best qualified female university entrant in the selected communities. Additionally, The Gap Go Beyond Schools Sustainability Awards annually reward and recognize the most effective sustainable development project.

In the second phase, the programme works with two organizations in Sri Lanka to develop a prototype for an eight- to ten-day certification programme for 20 to 25 women who have demonstrated entrepreneurial ability.

Another co-branded initiative is Unilever Go Beyond, which is a two-day programme called “Getting More out of Life” that is presented at the plants as part of the regular Go Beyond framework. It includes one day of health and hygiene education and one on personal grooming and confidence building. Unilever funded the salaries of the university lecturers, medical faculty and beauticians who teach the course, which concludes with an examination and a certificate of completion. Co-branded programmes are also in development with Victoria’s Secret and Marks & Spencer.

Ethical standards and the future

The Go Beyond programme created an opportunity for developing a MAS brand, a step not usually taken by contract manufacturers. MAS has begun talks with The Gap Inc. to put Go Beyond “ethically made” tags into its clothes, right next to The Gap branded labels. If the initiative is implemented, it will create a closer vendor-client relationship between MAS and The Gap, and also appeal to socially responsible consumers.

Conclusion: Tools for ethical and strategic change

Operational excellence and production efficiency were baseline conditions for MAS’s ability to commit new resources to Go Beyond. Board-level executives and managers across all functions, not just personnel managers, were committed to implementation. Furthermore, MAS was eventually able to combine its resources with outside funds to continue to develop the programme.

MAS’s close relationships with its clients allowed Go Beyond to become a strategic opportunity for growth as well as for improving working conditions, which increased the sustainability of the programme. By communicating with workers in their mother tongue and allowing them to participate and be rewarded, the programme benefits became an expected norm in the relationship between workers and management. The

inclusion of media, government and NGOs created a network not only for support, but for constructive critique and improvement.

MAS management hopes to differentiate the strategic use of corporate social responsibility from general philanthropy, which continues at the plant level. The company hopes to stay ahead through the use of co-branding and ethical codes of conduct that lend legitimacy to the Go Beyond programme. While increased visibility exposes future missteps to the media, NGOs and public, the establishment of an ethical standard forces apparel factories elsewhere to meet the standard, which reduces their cost advantage relative to MAS. If Go Beyond becomes such a standard, garment workers worldwide will benefit.

Endnotes

- 1 This annex is available at <http://www.unglobalcompact.org>.
- 2 These principles are: Business should support and respect the protection of internationally proclaimed human rights; business should uphold the effective abolition of child labour; and businesses should uphold the elimination of discrimination in respect of employment and occupation.
- 3 Article 23, Universal Declaration of Human Rights.
- 4 The right not to be discriminated against is a key right found in all human rights instruments and articles. Some examples of the right include Articles 2 and 23 of the Universal Declaration of Human Rights.
- 5 Article, Convention on Economic, Social and Cultural Rights, and Article 25, Universal Declaration of Human Rights.
- 6 Article 26, Universal Declaration of Human Rights.
- 7 This annex is available at <http://www.unglobalcompact.org>.

Achilles: Collaborative industry approaches to supply chain corporate responsibility

Helen Wadham and Mark Wilkinson*

Human rights issues addressed

- Supply chain

Human rights management practices discussed

- Getting started
- Strategy
- Policy
- Processes and procedures
- Communications
- Measuring impact and auditing

Human rights, standards, tools and initiatives mentioned (beyond the UN Global Compact)

- Global Reporting Initiative

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Key factors driving CR in the supply chain

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Analysis using the elements of the

UN Global Compact Performance Model

Abstract

This study focuses on how Achilles, its partners and customers adopted a collaborative approach to addressing human rights and labour concerns in the supply chain of UK utility companies.

This was achieved through enhancements in supply chain management techniques, including improvements to Achilles' supplier database for the sector. The scope and quality of information obtained from suppliers about their human rights and labour performance and made available to utility companies was increased through a process that entailed reaching consensus across the companies on new questions to be asked of suppliers.

The findings presented by this case study include:

- 1) The Global Compact enables companies to express and internalize existing principles and values through an internationally recognized framework;
- 2) Diverse corporate responsibility (CR)¹ drivers and challenges facilitate companies' learning from organizations in other sectors and geographic regions;
- 3) Effective implementation of CR within the supply chain requires a combination of clear leadership and support from all parties (service provider, purchasing companies and suppliers);
- 4) Effective implementation of an international standard in the supply chain depends upon

purchasers and suppliers having an improvement mindset rather than a "policing" expectation; and

- 5) Compromises inherent in the collaborative approach may prevent participants from pursuing certain sensitive topics in depth, but adherence to an international framework provides a minimum standard that can be tailored by individual companies, through a three-tiered approach that combines: general questions, specific questions for those suppliers identified as potentially "high risk," and templates for specific contract-related questions.

Based on these findings and on Achilles' ongoing results, the study concludes that industry-wide collaboration on supply chain improvements can produce tangible results and be commercially viable.

The case study also analyses the elements of Achilles' own management and operations that made it possible for it to play the role it does.

Company profile

The Achilles Group (Achilles) is a provider of supplier management information,

* Helen Wadham is an Associate Lecturer and doctoral researcher at Manchester Metropolitan University. Her research interests are CSR and sustainable development, specifically business/NGO partnerships and their role in development. Mark Wilkinson is Company Secretary at Achilles Group Limited, and has a background in procurement and supply chain management in the private and NGO sectors. Peer review of this case study was provided by Luke Wilde, Director of TwentyFifty Limited. We are pleased to acknowledge that this case study was researched and written with the support of The Achilles Group. The complete version of this case study is available at www.unglobalcompact.org. This case study is based on a series of interviews held during October–December 2006 with key actors within Achilles and participating utility companies (see Appendix 2 available in the version of this case study posted on the UN Global Compact website). In addition, it incorporates relevant public and internal documents produced by Achilles and its steering and working groups. The information review also included relevant academic literature.

delivering procurement and business solutions to 500 companies, principally in the utilities, transportation, oil and gas, and mining sectors. Established in Norway in 1990, the company is now based in Abingdon near Oxford in the United Kingdom; it has 300 employees in 20 countries and a turnover of £17 million. Achilles' services aim both to improve companies' procurement cycle (supply chain efficiency) and help them manage commercial, health, safety and environmental (HSE) and CR risks.

The company's business model is based on creating industry communities of organizations with a common industry supply chain in order to standardize the process of supplier sourcing. Through this model, Achilles has developed a global network of supplier management services that use the services to register, pre-qualify and monitor the performance of their suppliers. Achilles currently gathers data on 28,000 suppliers, each of which completes a comprehensive annual questionnaire and pays a subscription fee to their particular industry service. Each completed questionnaire is then made available online to all subscribing buyer companies within that industry. Each industry service is governed, developed and partially financed by a steering group that comprises representatives of the purchasing companies. Achilles also joins the steering groups as a neutral third party. Achilles' neutrality, independence and transparency are fundamental to its success, enabling it to encourage collaboration between rival companies. It also allows a cooperative, partnership-like approach between buyers and suppliers.

In response to its clients' growing interest in CR issues, Achilles joined the UN Global Compact in July 2005. Even before joining, Achilles had incorporated CR elements within several of its industry services. "The kinds of procurement issues corporate responsibility raises are too big for individual companies to solve on their own," said Achilles' Company Secretary. "They are increasingly looking at working at an industry level...."

Achilles was a natural home to look at corporate responsibility."²

Achilles' actively encourages CR in supply chain management for its customers. The company website has a dedicated CR area, with links to clients' websites that reference Achilles' work. Achilles' "Corporate Social Responsibility" (CSR) brochure features on the website. The company's customer-focused approach to service delivery translates into flexible CR responses that vary between sectors.

The company has an internal role for a CSR Business Analyst, who co-ordinates the response to CR challenges and opportunities throughout the company. "You need to embed CR in the wider way you do business," said the Achilles CEO. "It's not a separate piece of the jigsaw, and this is the way most people will come to look at it... If there were no business interest, we would still wish to do this. We see a big advantage. The Global Compact creates a huge opportunity for us to get our own house in order."

Introduction

In 1995, Achilles and four major UK utilities established the UK Utility Vendors Database (UVDB), an information database designed to help shorten the sector's procurement cycle and improve market intelligence regarding suppliers. The UVDB allows utility companies to pre-qualify suppliers for a tender, potentially reducing the procurement cycle by up to 37 days. Today, the database portfolio includes over 5,000 registered suppliers who complete an online questionnaire to pre-qualify for utility sector work. The service is used by 80 utility companies. It is managed by a steering group established by the founding members (including Achilles).

The UVDB and its steering group rapidly became an arena for addressing common problems in the supply chain beyond mere questions of how to enhance efficiency. For example, the utilities faced pressure throughout the 1990s to improve their suppliers' HSE performance. This led to the establish-

ment in 2001 of the Verify assessment process, which qualifies suppliers through an assessment of their HSE and quality capabilities based on their management systems and site performance. More than half the UVDB's members now use Verify. From 2003 onwards, several UVDB/Verify members began to exchange ideas about using the service to address supply chain CR. These members formed the CSR Working Group.

Key factors driving CR in the supply chain

Since 2003, there have been three key drivers underlying the utilities companies' increasing concern about human rights, labour standards and environmental issues within their supply chains: increased public activism; market pressure; and localized risks.

During the 1990s, increased shareholder and consumer activism illustrated the public's sophisticated understanding of business's role and its perceived responsibilities towards society. Fringe campaigns captured a wider audience and began to impact corporate performance, especially in industries characterized by strong brands, such as sportswear. Citizens held these brand companies accountable for the actions of their suppliers, regardless of whether or not the companies had knowledge of malfeasance.

Other industries, including the utilities, recognized the potential threat to reputation created through the supply chain. Although competition is less than in brand-dependent retail sectors, utilities remain susceptible to consumer and market pressure: "Utilities do have high-risk areas like clothing or meters. You need to know how the components were produced. They're likely to have your logo on them and be in people's houses, so there's a high brand association." (Utilities Sector Manager, Achilles).

"If there was some major problem with a supplier, it would come back with the utility's name on it," a representative for one of the member utilities said. "The share price could be affected [by

such fallout].” Furthermore, risks inherent to utilities’ production and distribution processes—minimizing pollution and maintaining drinking water quality—expose them to localized geographic sensitivities. Local social issues, such as affordability and superior customer support, factor in as well.

Building CR into the UVDB

The UK utilities industry has traditionally been preoccupied with HSE issues. However, increased awareness of human rights and labour standards prompted requests beginning around 2003 for the inclusion into the UVDB of questions based on the Global Compact Principles and other well-known CR mechanisms.

The company’s earlier experience building HSE risk assessment into the UVDB helped prepare management for the opportunities and challenges of such CR integration. When a nucleus of member companies began to press for reforms, Achilles was able to advocate for the inclusion of CR principles.

The UVDB CSR Working Group, comprising several member utility companies, had formed in 2003 as the first formal step to guide the CR effort. During this time, Achilles researched the CR issue internally. In July 2004, Achilles’ Company Secretary and a representative of human rights consultancy TwentyFifty Limited presented the findings of the strategic review “Corporate Responsibility and Achilles” to the Achilles Board. The review included a gap analysis of the UVDB and a preliminary assessment of CR-related market opportunities. The board unanimously agreed that the company should embrace CR and develop CR questions for the UVDB. From then on, Achilles would act as a facilitator to help move the CSR Working Group’s agenda forward.

In November 2004, TwentyFifty Limited showed the CSR Working Group how the UVDB could help utilities address CR concerns and Global Compact principles by including information on suppliers’ labour standards. The Working Group then discussed how the UVDB already managed CR data, what international standards

would guide the development of a CR database, and whether a phased approach was best.

Achilles reported back to the CSR Working Group in May 2005 on discussions with legal experts from the University of Nottingham on EU procurement legislation. Significant legal uncertainty surrounded both the general approach and the drafting of non-discriminatory, quantifiable and statistically proportionate questions. In addition, questions in the UVDB must comply with EU procurement legislation: Companies cannot be pre-qualified on the basis of their answers to CR questions that may or may not relate to their ability to carry out a particular piece of work. Achilles’ and the Working Group’s solution was to use the existing UVDB structure to offer a three-stage approach. First, all suppliers would have to answer the CR questions and produce evidence as part of their annual update. Buyers could use this information to assess suppliers but not to exclude them. Second, specific questions would be asked of suppliers identified as potentially “high risk”; third, templates would be developed to enable purchasers to ask specific questions of individual suppliers where justified by circumstances. This three-stage approach would ensure compliance with existing legislation and facilitate benchmarking.

In September 2005, Achilles organized a national conference for utilities’ suppliers. The conference provided information on evolving CR expectations and tools for developing internal CR programmes. Many attendees came from the utilities themselves, demonstrating their desire to find out more about what other companies were doing in their industry. Achilles brought in speakers from various sectors to share best practices, including a CR manager from BT.

In December 2005, the CSR Working Group approved a communication to accompany the release of the CR questions into the UVDB, as well as a six-stage action plan for future developments:

- implementation of Stage 1 (general) questions;
- introduction of a “dynamic ques-

tionnaire” for suppliers of high risk products/services;

- standard template of CSR questions within e-Qual³ system for more detailed issues;
- customized questions within e-Qual to enable purchasers to ask about more specific CSR requirements;
- verification through factory/on-site audits; and
- performance feedback to drive improvement.

It was also agreed that the group would implement a supply chain review of three specific products (protective clothing, yellow pipe and meters), to gain insight into potential risks further down the supply chain.

In December 2005, Achilles circulated a final annotated draft of the “UVDB Stage 1 CSR questions” to members of the CSR Working Group (see Appendix 1).⁴ The CSR questions are not searchable and cannot currently be used in shortlisting suppliers for tender but provide additional background information for purchasers. The questions went live on the UVDB database in February 2006.

The questions derive from Principles 1 to 6 (human rights and labour standards) and Principle 10 (corruption and bribery) of the Global Compact and ask whether the company has:

- Working practices that take into account internationally recognized labour standards;
- An approach to track and/or report on its performance against labour standards;
- Appropriate working practices that prevent any form of bribery or corruption;
- Working practices to evaluate and select suppliers/sub-contractors that take into account internationally recognized labour standards;
- A demonstrable approach to track and/or report on its suppliers’ or sub-contractors’ performance against labour standards; and
- Appropriate working practices that prohibit any form of bribery

or corruption within its suppliers or sub-contractors.

The questionnaire also includes four optional questions, which can be answered anonymously. It asks the company to disclose whether it subscribes to any recognized social, labour or ethical standards or guidelines, whether it requires subcontractors to adhere to such guidelines, whether it publishes an annual report on its key labour standards/ethical issues and whether any such report includes auditable improvement targets.

The inclusion of CR questions is significant for two related reasons. First, it symbolizes companies' expectation that their suppliers conform to, or even exceed, measurable CR standards. Second, it presents a necessary framework for suppliers' CR awareness and actions, encouraging them to get actively involved in their companies' CR management and understand its implications for their business, their relationships with purchasers and suppliers and their position within their communities.

These questions represent the first stage of the implementation of the UVDB's CR component. The second stage, to be launched in 2007, will have more detailed questions of direct relevance to contracts for specific products and services identified as potentially "high risk" in terms of CR.

Some challenges

Gaining consensus

Extensive discussions preceded the inclusion of the questions in the supplier questionnaire. The questions that were included are therefore more general than those originally envisaged, thus reconciling diverging interests while covering a broader supplier base. Nonetheless, in order to secure the widest possible agreement across a particular sector, the CR questions selected were only those that were acceptable to all and do not go as far as some companies would have liked.

Incorporating CR within the supply chain required not only consensus among participating purchasers, but also the support of suppliers who have access to companies further down the supply chain. Suppliers vary both in their understanding of and commitment to improving CR performance and their engagement with Achilles' model of supplier management. Some suppliers have endorsed the company's efforts, but others question its motives.

Achilles and the utilities have worked to identify the potential impact of those developments and to incorporate suppliers' views into the decision-making process. This has mainly been accomplished informally, with the Utilities CSR Conference in 2005 or supplier training sessions. Some individual utilities have formally involved suppliers through their stakeholder engagement processes.

Timing

The introduction of new CR questions is predicated on extensive, often slow, discussions among steering group members. "There's typically quite a long cycle involved before we launch a new scheme," said Achilles' Company Secretary. "We need to get to know our customers well, and vice versa, so they get to trust us, and work with us almost on a partnership level." The company's Utilities Sector Manager said, "For the first 12 months or so it was largely a discussion forum. It was difficult to crystallize into tangible actions."

These reforms consumed company resources and the development process moved too slowly for some member organizations, which have different levels of knowledge and experience with the issues. As one member company representative noted, "The most frustrating part is how long it's taken [to progress action within the CSR Working Group]... It's difficult to get people together, and getting agreement is difficult. We didn't want to live with the risks for any longer than we had to." Another noted that "It's not moved quickly and that's been frustrating. There's

been a lot of discussion even around what human rights mean. It's at the beginning, like the early discussions that happened about environmental issues in the supply chain."

As a result, a number of utilities have since developed their own questions to speed up the incorporation of CR within their supplier management system. Some have also looked beyond the Achilles community to gain access to best practice: Both Eon and South West Water have actively approached competitors and suppliers. However, both companies also acknowledge the value of the networks they have developed through membership of UVDB. "We wouldn't have developed our own questions as quickly had we not been a part of [the UVDB process]," conceded one representative. "It was very useful to have access to that expertise." The questions these companies developed internally were informed by and compatible with those under discussion by the CSR Working Group.

Tailoring

Achilles must be sensitive to the needs of various client sectors in its efforts to promote Global Compact principles. While the UK utility sector first embraced HSE and now CR criteria, the experience does not immediately translate. "Different industries demand different information," explained Achilles' Marketing Manager. "The rail industry is very focused on safety critical information... They're looking at risk assessment... Oil and gas are focused more on quality."

The North Sea oil and gas industry has responded with less urgency than the utility sector when approached about CR integration. "In some cases it was questioned if it was needed at all in a heavily regulated region," said Achilles' Head of Group Services. Consequently, Achilles' work with the oil and gas sector has focused more on awareness-raising among buyers and suppliers.

Achilles has taken the approach of "identifying local solutions for global problems." However, the increasingly

international debate about supply chain CR is likely to result in more convergence of approaches in future, both between sectors and between countries.

Documentation

A common element among the CR services provided by Achilles across sectors is the focus on improvement rather than monitoring. Participating companies recognize that increased auditing can lead to a “policing” approach, with a resulting focus on problems and reputation harm rather than solutions and community contributions. Consequently, the focus is on asking questions enabling suppliers to demonstrate their compliance with international standards. This standards-based focus is advocated by the Global Compact, the Global Reporting Initiative and other projects as offering the best way to create transparent CR measures that facilitate comparison across and between sectors.

“When we talk to suppliers about the Global Compact and corporate responsibility, we’re always telling them that they’re probably doing a lot of this already; it’s just that now it comes under a different banner,” said Achilles’ Utilities Sector Manager. Suppliers that need to improve or document their CR commitment can attend workshops and access support materials regarding how to demonstrate progress.

This focus on improvement rather than monitoring may be more productive but depends upon the validity of any data supplied. Without documentary validation, the stored data has no credibility. Companies must currently produce documentary evidence (e.g. internal policies) to support their answers, and in the future they will be externally audited as well.

Neutrality

Given that the collective approach entails competitors, Achilles’ status as a neutral third party is especially important, but is also potentially problematic because Achilles has moved from being a service provider to becoming a member of the communities it serves. On the one hand, it is important the company retains its

neutrality to build up credibility in the CR context. On the other, if it wishes to be a “thought leader” and encourage companies within its sphere of influence to become more active in addressing CR challenges, it runs the risk of compromising that same neutrality. The company therefore needs to collect and disseminate credible data. This dual-role challenge is recognized by Achilles’ management team. The company’s Secretary explained, “Most suppliers would inevitably prefer not to have to pay to have their information made available to our buyer customers, so we’re aware we need to offer value to the supplier community. We have to demonstrate to them that the systems are being used by the buyers. But we believe there is still an inherent value to the suppliers under our model.”

Achilles is careful that the responsibility for driving CR developments stays in the hands of its purchase-side customers. Achilles sees its central role as stimulating debate and identifying the key CR challenges for purchasers and suppliers. An additional value of Achilles is the experience it can take from sector to sector. In order to stimulate debate and identify the key CR challenges for purchasers and suppliers in a way that preserves its neutrality, Achilles established the Oxford-Achilles Working Group on Corporate Social Responsibility, a joint venture with the Saïd Business School.

On the purchaser side, Achilles must balance being a leader in CR development with the procurement needs of its customers, who may not always endorse the amount of time and resources that these reforms require. Both Achilles and the utilities agree that Achilles’ CR activities have not affected the nature of their relationships, primarily because Achilles’ commitment to the Global Compact reflects an extension of existing values and practices within the organization. Despite the challenges presented by the collaborative approach, especially the time taken to secure resources and agreement, Achilles’ believes the utility companies are highly supportive of the process and recognize the company’s value.

Conclusion

Achilles’ work to promote CR has strengthened its relationship within the UK utility sector and given the company additional tools that it can now use in other sectors. Some of the conclusions or lessons learned that can be drawn from Achilles’ experience include the following:

The industry-wide collaborative model has tangible results

Achilles’ experience in the utility sector shows that collaboration between competitors benefits companies across the supply chain, providing them with ways to add value, manage costs and share best practices. CR information provided by suppliers is made available only to purchasing companies and cannot be accessed by their competitors. Those industry sectors yet to explore working with competitors should consider that such an approach can increase performance across the board.

Moreover, collaboration generates support among suppliers, thus ensuring consistency and limiting duplication of efforts. Collaboration between competitors and purchasers or suppliers enables the dissemination of CR initiatives within the supply chain.

Emphasizing improvement over monitoring can increase supplier cooperation, which is crucial since first-tier suppliers can reach companies further down the supply chain.

The collaborative approach does have certain limitations. It can be slow and frustrating. Managing expectations about timeframes and outcomes and ensuring clear leadership can mitigate commitment fatigue. Thus, decisions should be taken on a collaborative basis, but one individual should have responsibility for ensuring implementation. In addition, collaboration entails compromise. One participant noted that his company’s CR priority is lowering carbon emissions (which Achilles has since started working on separately), while the CSR Working Group has to date given precedence to human rights and labour standards.

The collaborative approach is commercially viable

Achilles' model has proved commercially viable, first in procurement, then HSE and now in CR. This rebuffs current challenges about the sustainability of increased corporate responsibility. Achilles presently faces little competition, and its closest competitors are not-for-profit organizations in the United Kingdom and the United States. Service providers should heed the message that integrating CR across supply chains through an industry-wide approach can work commercially and provide a starting point for other services. It also demonstrates that through such an approach, smaller firms can influence their peers, as well as bigger companies and the communities that they operate in, in ways that belie their size.

Successful CR strategies should be based on recognized international standards from the outset

Growing public interest in the corporate responsibility of global supply chains has raised awareness of CR-related challenges. Suppliers thus need to develop concrete tools enabling them to address those challenges in a quantifiable and consistent manner across countries and sectors. CR activities have been criticized both by NGOs that believe they do not go far enough and by businesspeople who question their value and sustainability. Recognized international standards, such as those promoted by the UN Global Compact Principles, facilitate measurement and comparison across countries and sectors, providing companies with a mechanism to demonstrate commitment and measure performance on an international benchmark. Companies are thus encouraged to take a global approach to CR, and service providers like Achilles need to develop solutions that are equally international in scope.

Effective CR supply chain management requires both a risk-management approach and CR implementation in daily practices

Much of the current debate around supply chain CR views it as a risk management issue. Not surprisingly, procurement and CR policies often conflict: A buyer's best intentions can be undermined when faced with tough choices and limited budgets. This case study suggests that CR and procurement policies can be complementary not contradictory, that only by embedding CR strategy within day-to-day procurement practices can a company secure sustainable improvements in its supply chain management.

The development of this shared vision requires the active participation of CR and procurement professionals. Creativity may be required to gain commitment from different parties. In this case, the procurement actors signed up on the basis of past experience of working with competitors and Achilles via the steering group mechanism. The CR actors were unfamiliar with Achilles and the steering group system: The involvement of a third party with an established reputation in CR (human rights consultancy TwentyFifty Limited) was instrumental in securing their participation. Consequently, the collaborative approach relies on recognition of the strengths and weaknesses of potential participants and willingness to draft in external support where necessary.

Analysis using the elements of the UN Global Compact Performance Model

Vision

The key principles and values of the Achilles Group, as articulated in published documents and through interviews with key staff, include non-discrimination, transparency and neutrality. These principles and values are important to Achilles' staff, fundamental to the company's business model and crucial to sustainable relationships with its clients:

Being non-discriminatory and transparent has always been very important to us, as trust is crucial to what we do.

– Chief Executive Officer
Achilles

This emphasis on transparency and trust enables Achilles to encourage collaboration between companies within the same industry in areas where they do not compete (such as their supply chain or CR practices). It also enables a cooperative, partnership-like approach between buyers and suppliers.

Technological advances, consumer demand for lower prices and global sourcing are three primary pressures behind continuous cost decreases within the supply chain across diverse industries since the 1990s. Coupled with growing public interest in sustainability, these pressures require companies to go beyond mere efficiency and ensure that their procurement policies and processes are also based on market intelligence about their suppliers. Achilles' strategy of repositioning itself from a supplier management service to an industry facilitator mirrors this development towards intelligent procurement policies. Its website states its vision of working with its customers to manage and improve their management of CR within the supply chain:

In its role as a provider of information to buyer and supplier communities in a wide range of industry sectors, Achilles is uniquely placed not only to help companies manage ethical risk but also to encourage performance improvement and the raising of standards.

Achilles' membership in the Global Compact has confirmed its vision while providing it with additional tools and insights into assisting its customers. The company has thus incorporated the Global Compact principles into its vision through the staff handbook, induction and training and externally through its website, marketing materials and external services.

Leadership

Achilles is managed by the CEO and seven regional directors. Achilles has developed a relaxed management style well suited to promoting and implementing its leaders' vision through informal channels. The company's rapid international growth through the mid- to late-nineties was therefore managed through considerable face-to-face interactions and partnerships with clients. The Chairman and CEO travel extensively, working with recently established teams in Europe and the Americas to communicate the company's vision and ensure that new offices share in the vision. A similar level of informality characterizes the company's UK operations.

The leadership style is accessible, subject to time constraints. Although it's now becoming more difficult for people to wander into [the CEO's] office and say "I've got an idea," this is due to availability, not any lack of interest.

— Company Secretary
Achilles

Achilles is now establishing more formal structures that are required to manage and improve communication within the company. One example is the new regional corporate structure, which facilitates the exchange of information across six geographic areas. Despite these sustained levels of growth and the development of new structures, the heritage of informality remains:

I'd like to say our management style is open and consensual. We have a matrix structure. A high degree of what we do – our intellectual property – is in people's heads. We have to run the business in an open way; otherwise, people would leave and take their ideas with them.

— Chief Executive Officer
Achilles

In addition to the company's leaders, the company's staff and customers also encourage the implementation of the Global Compact principles. For example, the UVDB CSR Working Group had already been established prior to the Board meeting in 2004 that officially endorsed the

strategy of including human rights and labour standards questions within the UVDB supplier questionnaire.

Achilles' previous experience within the utilities sector and with HSE issues enabled senior managers to actively advocate the principles' incorporation:

We've always offered an element of thought leadership... We were thought leaders with regard to how to manage European procurement law. This is just for a different constituency. We're working with everyone from engineers to specialists in CR to people working in PR. It's a different audience.

— Chief Executive Officer
Achilles

Achilles' experience of managing HSE risk assessment for its customers presents certain similarities, as well as possible solutions to the needed extension of the original UVDB to incorporate CR questions. There is strong awareness within Achilles of the similar challenges involved in incorporating human rights into the company's vision and those posed by the environment. In fact the UVDB's incorporation of HSE questions occurred in response to demand from the utilities, foreshadowing the dynamic about supply chain CR five years later.

Companies will have to raise their game, which is what happened 15 or 20 years ago with regard to health and safety. HSE is part of the fabric now and CR will be the same.

— Utilities Sector Manager
Achilles

In the case of both HSE and CR, customers sought a sector-wide approach to tackle the shared challenge. "The development of Verify brought us more fully into the world of corporate responsibility. Companies are looking for some kind of visibility within their supply chain... assurance about how their suppliers are behaving."

— Company Secretary
Achilles

The inclusion of HSE and CR questions within UVDB have required Achilles to act as both a service provider and a facilitator, even an industry leader in facing HSE and

CR challenges. This dual role lies at the heart of Achilles' collaborative approach to supply chain management, and is predicated on extensive, often slow, discussions among steering group members.

There's typically quite a long cycle involved before we launch a new scheme. We need to get to know our customers well, and vice versa, so they get to trust us, and work with us almost on a partnership level.

— Company Secretary
Achilles

In this case, Achilles' role was that of facilitator: The initial driver was a member of the steering group and a number of other members were beginning to consider how best to integrate CR policies into their supply chains.

As an energy company, corporate responsibility has always been a significant issue for us... We've been working on it for a while but it's definitely coming up the agenda. We identified supply chain issues as a potential weakness for the company, but we were aware that there was a lot of scope to use supply chain management as a way to address wider corporate responsibility issues.

— CR representative
UVDB member company

Empowerment

Achilles' informal management style exposes a culture that emphasizes the value of employees' contributions at all levels within the company. For example, the company's Head of Marketing described the way in which the company dealt with the challenge of a tender process as follows:

It was interesting to see how a team of people from across the business got together to talk about how we should respond. It was a great illustration of our collaborative approach.

Another illustration of the company's emphasis on employee contributions is the Graduate Management Development Programme, which places employees in different areas of the business for 7 to 13 weeks over the course of the programme. Employees thus familiarize themselves

with the entire business process and are prepared for management roles in business units within two years. Another example of how Achilles seeks to empower its employees is its involvement with the Outward Bound Trust. The company regularly sends staff on the trust's training courses and has become a corporate sponsor.

While this reflects an identifiable Achilles "ethos," the company has taken advantage of emergent structures to ensure diversity. In particular, the staff handbook is a tool to standardize recruitment and HR policies. It is an internal reflection of how the company seeks to address business challenges through combining a consistent global approach with locally informed solutions.

We want to run a simple straightforward business, not to overcomplicate things through a complicated organizational structure. We want to be consistent in the way we manage people... Obviously we want to comply with each jurisdiction where we work, but we want to go beyond that and set minimum standards in the way we manage people.

—Head of Human Resources
Achilles

During 2006, a grading structure for all posts within the company was introduced and policies on HSE and diversity were developed, along with grievance and disciplinary procedures. All these elements were drawn up in consultation with the global business units in different countries. The policies set the "minimum standard" for the group but are adapted in each country to meet specific local responsibilities and priorities.

We've used the Global Compact as an opportunity to review our procedures and make sure we're doing everything we should.

—Head of Human Resources
Achilles

Employees have participated extensively in the Handbook's preparation. Their awareness of its content therefore enables them to inform new employees of its contents and encourage them to take the required actions.

Policies and strategies

Achilles' website and marketing materials clearly articulate the company's policy of encouraging CR in supply chain management. This commitment is made clear on the company's home page:

Achilles' supplier management schemes improve the efficiency of the procurement cycle while promoting health and safety, environmental management and wider corporate responsibility in the supply chain.

The website also has a dedicated CR area, with links to clients' websites that reference Achilles' work in the area. Achilles' CSR brochure is also featured on the website. The site provides examples of the "benefits, capabilities and experience Achilles can bring" to organizations seeking to manage CR risks across the supply chain.

However, apart from the above information, little else is published about Achilles' approach to CR. This is perhaps inevitable, given its focus on embedding CR within day-to-day operations: Its CR work is an evolution of existing activities and is therefore not strongly articulated as a separate area of work. It also reflects the company's reluctance to present itself as a "CSR hero," as discussed in "Resources" below. Likewise, it is also not surprising that Achilles' customer-focused approach to service delivery translates into flexible CR responses that vary between sectors. As articulated by a number of interviewees, Achilles is well placed to recognize the differing motivations and understanding of CR in diverse sectors:

Different industries demand different information. The rail industry is very focused on safety critical information... They're looking at risk assessment... Oil and gas are focused more on quality.

—Marketing Manager
Achilles

This results in different responses from Achilles on a sectoral basis. As documented elsewhere, the UK utilities industry has traditionally been preoccupied with health and safety issues, which drove the development of Verify.

More recently, the increased awareness of human rights and labour standards, which largely stems from observing the experiences of other industries, has driven the inclusion of questions based on the relevant Global Compact principles in the UVDB database. By contrast, the North Sea oil and gas industry has responded with less urgency:

We were asked by a number of oil and gas companies to consider setting up a corporate responsibility database. We ran a consultation process with suppliers who supply products and services to the North Sea oil and gas sector and we had a number of responses questioning the need and the timing for this. In some cases it was questioned if it was needed at all in a heavily regulated region.

—Head of Group Services
Achilles

Consequently, Achilles work with the oil and gas sector has been more focused on awareness-raising among buyers and suppliers. This flexible approach fits with what one interviewee termed Achilles' approach of "identifying local solutions for global problems." However, the increasingly international debate about supply chain CR is likely to result in more convergence of approaches in future, both between sectors and between countries.

Resources

To date, Achilles has not created a separate CR department, rather it seeks to durably integrate CR within existing activities, services and operations.

Our approach to corporate responsibility is laid out in our draft CR policy, which is a single page. There's no single department responsible for all CR issues throughout the company. It should be inherent in everything we all do and in the way we all work.

—Company Secretary
Achilles

The advantage is that CR activities are being incorporated into employees' day-to-day work, thus ensuring a wide

base of employees shaping the development of Achilles' CR strategy. The incorporation of CR activities also facilitates the transfer of learning between employees involved with different sectors.

This approach faces two potential challenges. On the one hand, the assumption of the CR function by employees limits the use and contributions of external CR professionals. Achilles has addressed this concern by creating an internal role for a CSR Business Analyst, who will co-ordinate the response to challenges and opportunities created by CR. A former graduate trainee will thus become the main internal CR resource, providing support for managers across the group and building up Achilles' knowledge of the key issues and actors in the CR arena. On the other hand, the use of an integrated approach means multiple actors are involved across the company and CR-related activities and impacts are difficult to isolate and measure. However, this is not necessarily undesirable:

You need to embed CR in the wider way you do business. It's not a separate piece of the jigsaw and this is the way most people will come to look at it... If there was no business interest, we would still wish to do this. We see a big advantage. The Global Compact creates a huge opportunity for us to get our own house in order.

— Chief Executive Officer
Achilles

However, it is then difficult to market Achilles specifically as a "CR service provider." One interviewee explained this reluctance as stemming from an instinctive suspicion of "people or companies that stand up and say they are CSR heroes." Achilles' response has been to build its CR reputation through both "tried and tested" and novel channels. Firstly, it has taken the matter-of-fact approach of the service provider:

People have just got to learn it and apply it. It's essentially a training issue. Companies just have to take a few sensible steps.

— Chief Executive Officer
Achilles

Secondly, Achilles is building its reputation in CR by sponsoring the Oxford-Achilles Working Group on Corporate Social Respon-

sibility. Conceived as a way to build up the knowledge base about CR, this joint venture between the company and the University of Oxford's Saïd Business School comprises a series of academic lectures and public seminars, along with published white papers and case studies on CSR.

The incorporation of CR questions into existing or new services, supplier training and the relationship with the Working Group on CSR are all clearly manageable using existing financial and human resources. However, the auditing and validation of CR information, which is crucial to establishing its credibility, presents a challenge in terms of resources as experienced external auditors will need to be recruited and managed.

Innovation and process

Achilles has adopted a practical approach, supporting companies' efforts to operationalize CR within their existing supply chain management systems. Collaboration enables companies to share experiences and develop an industry-wide approach to measuring suppliers' CR commitment. This standards-based focus is advocated by the Global Compact, the Global Reporting Initiative and other projects as offering the best way to create transparent CR measures that facilitate comparison across and between sectors. Nonetheless, in order to secure the widest possible agreement across a particular sector, the CR questions selected will necessarily be those that are acceptable to all and will therefore not go as far as some companies would like. Moreover, the process of reaching consensus can be time-consuming.

Impact on people

The increased CR focus is consistent with the values and principles of the company. Consequently the impact on employees has been to confirm rather than challenge their understanding of the company:

We always want to improve things in the way we manage the business. But the [Global Compact] hasn't had a revolutionary impact... We've used the Global Compact as an opportunity to make sure we're doing

everything we should.

— Head of Human Resources
Achilles

The CR focus has coincided with the company's expansion, growing from 40 employees in the UK and Norway in 1996 to almost 300 across 20 countries. This growth has brought challenges that have impacted the measurement and communication of CR activities.

Communication is an issue for us as a growing organization. We have always tried to cascade information and will increasingly rely on that process through our new regional structure. Cascading information is a key management activity and some are better than others depending on their management style.

— Head of Human Resources
Achilles

While the CR work is seen as coherent with Achilles' vision and strategy, for some staff it is integral while for others it is a novel add-on to other services. One respondent suggested that people in support functions see Achilles as a service provider, whereas managers emphasize its thought leadership. These different perceptions are perhaps inevitable as the firm repositions itself. The decision to undertake a branding review in 2006 recognized the need to work towards developing a new consensus on how people view the company both internally and externally. In fact, the overlap between the company's role as procurement service provider and CR thought leader may have enabled the company to better manage the differing needs of procurement and CR professionals within its client companies, mitigating potential tensions between the priorities of the two functions:

We're clear that we've got to incorporate corporate responsibility into our procurement practices. There's a strong basis in our procurement department... Some of the biggest problems in terms of corporate responsibility come from the supply chain so we have a big influence on how the company's CR policy is developed.

— CR representative
UVDB member company

Impact on value chain

Both Achilles and the utilities agree that Achilles' CR activities have not affected the nature of its relationships with external stakeholders, primarily because Achilles' commitment to the Global Compact reflects an extension of existing values and practices within the organization.

It's made us focus on the things we should be focused on... Joining the Global Compact has pushed us down the road of doing more.

– Chief Executive Officer
Achilles

However, this commitment to the Global Compact will likely strengthen the company's existing role as an intermediary between buyers and suppliers. Despite the challenges presented by the collaborative approach, especially the time taken to secure resources and agreement, the utility companies are highly supportive of the process and recognize Achilles' value:

We are able to gather people together in the same room who wouldn't normally think about sitting and talking together... The steering group can raise standards through an industry.

– Head of Marketing
Achilles

Combined with its ability to build CR awareness and capacity among suppliers, Achilles' role as facilitator influences not only its customers but also various other companies and organizations within the communities it services. Thus, utility representatives are currently seeking Achilles' help in integrating their national CR strategy within their company's international branches.

We're part of a French operating company. The challenge for Achilles is how to realign itself with the global view that the utilities now have.

– Procurement representative
UVDB member company

Despite these developments, Achilles continues to concentrate on markets offering the strongest opportunities for collaboration. It has thus not developed a utilities supplier management service in France, where the electricity industry has not yet been fully de-regulated. Achilles will hence need to be creative in addressing the increasingly global focus

of supply chain CR. For example, Achilles should facilitate discussions between the chairs of the various national steering groups for the utilities industry:

There have always been differences between different countries and different industries, but we now need to face the demands of globalization... and present our services in a more rational way.

– Head of Marketing
Achilles

This global focus would offer Achilles the opportunity to facilitate CR benchmarking between companies at an international level.

Impact on society

Achilles' key stakeholders are its customers. The Achilles business model is stakeholder-led so companies' views are by definition incorporated into—and usually drive—the decision-making process. Decisions require active participation in the relevant steering group and working groups, such as the CSR Working Group. Groups meet quarterly, with regular e-mail contact between meetings.

Both Achilles and the utilities recognize that incorporating CR within the supply chain requires the support of suppliers in order to gain access to companies beyond the first tier. However, there is clearly variation among suppliers, both in terms of their understanding of and commitment to improving CR performance and their engagement with Achilles' model of supplier management. Some suppliers are supportive of the company's attempts to integrate CR management within its services, but others are skeptical of Achilles' motives. Nevertheless, Achilles and the utilities have worked to identify the potential impact of those developments and to incorporate suppliers' views into the decision-making process. This has mainly been accomplished through informal means, such as the utilities CSR conference in 2005 or supplier training sessions. Individual utilities have also formally involved suppliers through their formal stakeholder engagement processes.

The supply chain mapping exercise (see the "Building CR into the UVDB" section) also offers a way to gather feedback from suppliers on the likely impacts of addressing their CR capabilities and performance. Supplier support is significant to this exercise as it is the

suppliers, not the utilities, who provide access to those companies further down the supply chain.

Reporting and communication on progress

Reporting and communication relies on a cascade model, within both Achilles and the utility companies. Within Achilles, developments are communicated informally and via regular e-mails across the group. For the utilities, representatives on the steering group and working groups report back to their companies and this information filters down through the relevant hierarchy. It is still too early to assess results and the extent to which these are being communicated across the participating companies. However, participants from the utilities mention high-level support within their respective companies for pushing CR up the agenda. One company in particular has stated its ambition to be the highest ranked utility in Business in the Community's CR Index, meaning that it is likely to prioritize reporting and communication.

Endnotes

- 1 Considerable debate about the meaning of the term "Corporate Responsibility" exists. For this case study's purposes, CR means voluntary actions taken by a company to address the "ethical, social and environmental impacts of its business operations and the concerns of its principle stakeholders" (Institute of Business Ethics, see www.ibe.org.uk) This definition reflects Achilles' own broadly based understanding of CR.
- 2 The UN Global Compact further facilitates CR awareness among Achilles and its customers by providing an international benchmark. In November 2006, Achilles published its Communication on Progress Report for the Global Compact. The report detailed how during the preceding year, the company had started work with five industry sectors to incorporate human rights criteria into their contracting and procurement practices. It also detailed how the company was working with its customers to promote greater environmental responsibility, eliminate discrimination and work against corruption and bribery.
- 3 Launched in 2006, the e-Qual service allows buyers to ask selected suppliers additional contract specific pre-qualification questions via the UVDB.
- 4 Appendix 1 can be found at <http://www.unglobalcompact.org>.

Using communication and consultation to protect human rights during a village resettlement: The story of AngloGold Ashanti and three Malian villages

Lauren Plackter Rubin*

Human rights issues addressed

- Resettlement and compensation of affected communities
- Social investment and community development
- Sphere of influence

Human rights management practices discussed

- Getting started
- Strategy
- Processes and procedures

Human rights, standards, tools and initiatives mentioned (beyond the UN Global Compact)

- The World Bank Guidelines on Involuntary Resettlement (OP/BP 4.12)
- The IFC's Performance Standard on Involuntary Relocation
- The OECD Guidelines for Aid Agencies on Involuntary Displacement and Resettlement in Development Projects

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Annex 1: Where to go for guidance

*Annex 2: Recommendations based on
AngloGold Ashanti's experience*

Abstract

In the mid-to-late nineties, Anglo American Corporation's Gold Division¹ (AngloGold Ashanti or the Company) discovered that extracting gold deposits from its reserves in Mali would endanger the viability of three local villages.

AngloGold Ashanti, along with other mine investors, the Malian government, and the local villagers, decided to resettle the villages rather than abandon the mining project. Governments typically assume the responsibility for community resettlements while corporations play a more minimal role. In this case, however, AngloGold Ashanti partnered with the Malian government and actively participated in all aspects of resettling the villages. AngloGold Ashanti faced various challenges in the course of the resettlements, but its practice of open communication and continued consultation brought about a resettlement design that was consistent with international human rights norms, and managed to preserve the traditions and culture of a minority population.

Throughout the resettlement process, the Company encountered various impediments and resistance. Notably, AngloGold Ashanti found that the villagers were unwilling to adopt certain modernizations made to the new villages. As a result, many of the modern advances are now improperly used, mistreated or abandoned. Additionally, AngloGold Ashanti's resettlement plan underestimated the large migration to the new villages of people seeking work in the gold mines. Because the Company did not allocate enough land or resources

to support the migrants, tensions arose between the original village inhabitants and the new arrivals. Furthermore, the villages are not yet self-sufficient. Thus, AngloGold Ashanti continues to fund and support the villages. These complications, among others, led to difficulties for the villagers and increased costs for the Company.

Despite these obstacles, AngloGold Ashanti formulated a resettlement plan that significantly protected the resettling villagers' human rights. In creating this plan, AngloGold Ashanti relied on various international guidelines setting forth human rights protections that can be incorporated into resettlement plans. Independent consultants were also hired to consistently and continually monitor the villages' progress. Additionally, AngloGold Ashanti frequently amended the resettlement plan to meet villagers' requests and consultants' recommendations. The result was a resettlement process that managed to preserve the traditions and culture of a minority population.

This case study examines AngloGold Ashanti's role in the Malian resettlements from a human rights perspective. Human rights relevant to this case study include the right not to be forcibly evicted or involuntarily relocated.² AngloGold Ashanti's decision-making process and resettlement procedure

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will be considered, along with the more challenging issues AngloGold Ashanti encountered. In addition, some recommendations have been provided for corporations similarly faced with the prospect of resettling a community.

Company profile

AngloGold Ashanti, Ltd. is a public company headquartered in Johannesburg, South Africa. The Company was formed in April 2004 through the merger of AngloGold Ltd., a South African gold mining company founded in 1944, and Ashanti Goldfields Company Ltd., a Ghanaian gold mining company.³ It is listed on the stock exchanges of New York, Johannesburg, Ghana, London and Australia, as well as the Paris and Brussels bourses.⁴

AngloGold Ashanti, Ltd. operates in a global marketplace. Led by Russell Edey, Chairman, and Bobby Godsell, Chief Executive Officer, AngloGold Ashanti employs almost 64,000 people around the world.⁵ AngloGold Ashanti is currently one of the world's largest gold producers. In 2005, AngloGold Ashanti's total gold production increased by 6% to 6.2 million ounces, of which 2.7 million ounces (43%) came from deep-level, hard-rock operations in South Africa.⁶ Accounting for a large proportion of gold sales worldwide, AngloGold Ashanti's revenue from gold income in 2005 was US\$2.629 billion with an 11% one-year sales growth, and adjusted net income was US\$200 million.⁷ In its 2005 annual report, the Company projected gold production to decline marginally in 2006 but to increase in 2007 to a range between 6.2 and 6.5 million ounces.⁸

The Sadiola and Yatela gold mines resettlement project⁹

Scope and history of the project

Beginning in 1996, AngloGold Ashanti worked to resettle the villages of Sadiola, Farabakouta and the Niamboulama hamlet. This decision came

after AngloGold Ashanti discovered gold reserves in Sadiola and Yatela containing at least four million ounces of gold worth at least US\$1.5 billion. The Company decided to undertake the mining of this reserve as a joint venture with a Canadian corporation, the Malian government and the International Finance Corporation (IFC).

The Sadiola mine, which will run until approximately 2012, represents one of the largest gold extraction investments in Mali, resulting in almost US\$280 million in capital investment.¹⁰ The Yatela mine was established shortly after Sadiola at a capital cost of US\$73 million.¹¹ The Yatela mine is expected to produce gold until 2008 with a lifetime expectancy of 1.6 million ounces.¹²

The reserves' discovery was vital to Mali's economy, as Mali is one of the world's poorest countries. Mali is a landlocked country that is regularly susceptible to drought.¹³ Despite recent economic growth, the United Nations Development Programme's 2005 Human Development Index ranks Mali as 174 out of 177 countries in human development.¹⁴ This index compares countries based on three aspects of human development: "living a long and healthy life, being educated and having a decent standard of living."¹⁵ The Company and the Malian government expected this project to stimulate the Malian economy and provide thousands of jobs for impoverished Malians. The mine's profits would also give the Malian government increased means to provide infrastructure to support its inhabitants.

The area surrounding the reserves is Sadiola. This region is typical of most of Mali, economically depressed with a low standard of living and virtually no infrastructure. Sadiola is located in the most western region of the country, near the Senegal-Mali border. The region is an isolated and rural area approximately 70 kilometres south of Kayes, the regional capital. Sadiola is made

up of 46 villages, which have more than 20,000 inhabitants.

Initially, all parties believed that the mining project would have minimal impact on the surrounding villages. In 1994, the Institute of Natural Resources (INR) conducted an Environmental Impact Assessment (EIA).¹⁶ This initial report concluded that AngloGold Ashanti would not need to resettle any villages in order to extract the gold from Sadiola. The EIA indicated that eventually the nearby Sadiola villages may not be able to co-exist with the mine, but that immediate resettlement was not necessary.

The EIA did not mention the northern village of Farabakouta. Within the next year, however, the Company discovered that the ore vein extended directly underneath Farabakouta, a small nearby village. The gold reserves could not be extracted without destroying this village. Extending the mine pit as far north as Farabakouta also changed Sadiola's situation. Sadiola was not located directly on top of the gold, as was Farabakouta, but the village was very close to the western edge of the pit. The Company determined that extracting the gold would severely impact the inhabitants of both villages, which meant that the villages would have to be moved or the project suspended.

While exploring the Sadiola region, AngloGold Ashanti also discovered an additional gold reserve in the nearby Yatela region. This reserve extended directly beneath the Niamboulama hamlet. The Company immediately concluded that the extraction of this reserve would necessitate the resettlement of the Niamboulama hamlet. But, in this case, the decision to resettle Niamboulama was made swiftly, and AngloGold Ashanti was able to apply many of the lessons learned in the Farabakouta and Sadiola resettlements to the Niamboulama process.

Deciding whether to resettle the villages

The decision to resettle

After discovering that the gold mines and the villages could not coexist, the parties first considered whether there were suitable alternatives to resettling the villages. The Company evaluated the pit-shell and waste rock dump designs of the gold mines as well as the mines' relative proximity to the villages. Concluding that the gold mines' designs were not alterable, AngloGold Ashanti, along with the other mine investors, the Malian government and local village leaders, then determined whether the economic benefits of the project outweighed the possible detriments to the resettling communities. Ultimately, the parties agreed that the potential revenue that could be generated from the gold mines outweighed the overall cost of the village resettlement.

As part of the loan agreement between the IFC and AngloGold Ashanti, the Company agreed to undertake the resettlement. The IFC provided a detailed outline related to the resettlement, which included communication and public consultation processes. There was little dissent among Company leaders regarding the decision to take on the resettlement process. Agreement among Company managers was based on two grounds. First, the IFC's loan was critical to building the gold mines. Second, Company managers believed that a successful resettlement that appeased all parties would be crucial to the overall financial success of the mines. AngloGold Ashanti's management was indeed aware of the possible negative consequences of not suitably resettling the villagers, such as violent protests, difficulties in hiring competent and committed employees, negative publicity and other forms of community unrest. As a result, AngloGold Ashanti took responsibility for all aspects of the resettlements.

International principles and guidance on village resettlement

Taking into account the advice received

from IFC and the increasing social expectations aimed at companies, AngloGold Ashanti also considered various international standards and principles when developing the resettlement plan. Human rights have been set forth in various international conventions and declarations, the most important being the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights. The rights guaranteed in these instruments, which together constitute the International Bill of Human Rights, include the right to life,¹⁷ liberty,¹⁸ freedom from cruel, inhuman and degrading treatment,¹⁹ the right to adequate housing and the freedom to choose a place of residence.²⁰

In addition to these protections, individuals and communities are also protected against forced evictions (or involuntary relocations). A forced eviction occurs when individuals, families, and communities are removed from their houses and lands against their will and without due process, legal or other forms of protection.²¹ When a resettlement is carried out in a manner that fails to respect procedural safeguards set forth to minimize the adverse impacts on affected communities, the resettlement process could rise to the level of a forced eviction and a violation of international human rights law.²² These procedural safeguards include comprehensive impact assessments, prior consultation and notification, provisions of legal remedies, fair and just compensation, and the provision of an adequate resettlement site.²³

Governments, international organizations, and civil society increasingly urge corporations to oversee community resettlements caused by the company's projects in an effort to avoid human rights abuses. In addition, companies that choose to closely oversee a resettlement process can more actively ensure that the company does not become complicit in human rights abuses committed by other parties actively involved in the relocation process. Active involve-

ment also secures a company's compliance with the second principle of the United Nations Global Compact, which asks companies to ensure that they are not complicit in human rights abuses.²⁴ The understanding of complicity in the context of the Global Compact largely follows the legal standard and means that companies should make sure they do not assist, encourage, benefit from or passively permit human rights abuses committed by governments, rebel groups, other companies or individuals.²⁵

To avoid complicity during a resettlement process, corporations may want to closely monitor a government that has offered to relocate a community on the corporation's behalf. Local authorities, particularly in developing nations, may be ill-equipped and lack adequate resources to handle resettlements appropriately.²⁶ Some governments may physically remove individuals from their homes through force and threats of force, without prior consultation or adequate notice.²⁷ These governments most often do not provide alternative resettlement sites.²⁸ Even where governments do provide a particular resettlement site, it is not uncommon for the resettled individuals to be abandoned, without access to food, clean drinking water, livelihood opportunities, education facilities, or materials to begin rebuilding their homes and community structures.²⁹ In such a situation, a company could be considered to be complicit in the human rights violations committed by the relevant government if it benefited from or encouraged the government's actions. This is why a corporation, particularly when operating in a country known for human rights abuses, may want to consider more closely monitoring government activities during the resettlement process to minimize the likelihood that the government will use improper means to resettle the communities.

In addition to avoiding complicity, a corporation can be vital to the resettled community's continued survival by planning and funding the resettlement. An improperly planned or inadequately

executed resettlement can have dire consequences for the displaced community. The United Nations Secretary-General has identified forced evictions as one of six primary causes of population displacement.³⁰ Inadequate aid during a resettlement can result in landlessness, joblessness, homelessness, marginalization, food insecurity, loss of access to common resources, loss of access to public services, social breakdown, and risks to host populations.³¹ Moreover, population displacement can cause social and economic instability as well as destroy traditional and cultural elements unique to that population. A recent study has highlighted that the impact of forced displacement on children is similar to the one of armed conflict.³² A corporation that provides proper support to a resettled community can help to ensure the continued viability of the community's way of life.

To achieve a successful resettlement without infringing on a community's human rights, a company may look to existing organizations, guidelines, and principles that provide direction on how to undertake a resettlement. In addition to the second principle of the Global Compact, discussed above, the World Bank Group, the International Finance Corporation (IFC), and the Organisation for Economic Co-operation and Development (OECD) have each proposed a set of principles and guidelines related to issues of community consultation and involvement, relocation requirements, and compensation provisions to guide corporations and governments through a resettlement process that complies with human rights norms. Although the World Bank and IFC's standards bind only those companies with which they do business, these standards provide a useful framework for a company designing a resettlement plan.³³

Third, the OECD provides Guidelines for Aid Agencies on Involuntary Displacement and Resettlement in Development Projects.³⁴ The OECD Guidelines set forth "best practices" for

corporations undertaking a community resettlement.³⁵

The basic principles and guidelines on development-based evictions and displacement that have been developed by the United Nations Special Rapporteur on adequate housing address the human rights implications of development-linked displacement. The guidelines outline the human rights requirements that accompany development based displacement, looking at requirements ahead, during and after the displacement.³⁶ These, and other guidelines, have been set forth in Annex 1.

The resettlement³⁷

AngloGold Ashanti began planning and preparing for the resettlements in 1996. Approximately three years later, the new villages were ready for the villagers. On 22 April 1999, 8 July 1999, and 6 October 2000, the villagers in Farabakouta, Sadiola and Niamboulama resettled, respectively. This section addresses AngloGold Ashanti's approach to the planning, construction and transfer phases of the process. This section will discuss topics such as compensation, site selection, construction, infrastructure, villager health and safety, and resistance to the resettlements.

Considering and calculating compensation

As the right of the villagers to adequate compensation for the loss of their land was never questioned, the only issues left to decide were what method and amount of compensation would be appropriate under the circumstances.

There are two main ways to compensate a displaced community. Parties can either pay community members cash for the value of property lost or, alternatively, parties can use the funds to resettle the population. Resettlement is preferable to cash compensation because structured resettlement minimizes the social and economic impact on the community. In this case, all parties agreed that AngloGold Ashanti

would bear the costs of providing compensation. The parties also agreed that cash payments alone would not be sufficient and that the circumstances demanded that the villages be resettled. The parties then agreed that 6 million CFA Francs (approximately US\$10,500) per village would be allocated to the resettlement projects.

The parties also determined that in some circumstances, cash payments to villagers would be more appropriate. In Sadiola, cash compensation was given to some villagers to replace small private structures, such as chicken coops, cattle enclosures and shade shelters. Moreover, AngloGold Ashanti provided agricultural equipment that the villagers needed to develop new croplands. In Niamboulama, AngloGold Ashanti allocated additional funds to employ people to clear new cropland and provide needed fertilizers.

Where cash compensation was offered, the cash value was based on official government figures as issued by the *Direction Regionale d'Urbanisme et de la Construction* (DRUC), a Malian government agency. Once DRUC determined the value of a particular item or structure, AngloGold Ashanti deposited the value at a local government office from which the villagers later retrieved the sum. Government representatives at the local administrative office witnessed all transfers and kept signed records as proof that the money had been properly dispersed. Most cash compensation was distributed in the initial phases of the project.

AngloGold Ashanti also recognized that the resettlements caused a hardship that the villages would not otherwise have encountered. Therefore, in each village's resettlement contract, AngloGold Ashanti agreed to provide additional funds to be used for supplementary community development projects. AngloGold Ashanti used these additional funds in part to build facilities that did not exist in the old villages. After receiving input from the villagers as to the structures they most desired,

AngloGold Ashanti used the additional funds to build schools, football fields, and community and government structures within the new villages.

One issue that AngloGold Ashanti encountered in connection with compensation was the belief of some villagers that they were entitled to employment within the mines as part of their compensation packages. Villagers in Sadiola and Farabakouta assumed that they were entitled to the highest paid jobs in the mines, regardless of experience, training or skill level, even though AngloGold Ashanti did not make any employment guarantees during the resettlement negotiations. In hindsight, AngloGold Ashanti recognizes that it could have communicated to the villagers more explicitly that jobs within the mines would be awarded based on aptitude and skill sets, not on membership within the resettled population. Even so, AngloGold Ashanti did hire a number of original inhabitants of the villages to work in the mines and assigned them to appropriate positions.

Picking new village sites

AngloGold Ashanti, the Malian government, and the villagers recognized that picking suitable village sites was critical for the stability and continuity of the new villages. The baseline criteria for the proposed village sites included suitable access to food, water and other natural resources, main roads, and nutrient-rich soil that could support farming. A site without these crucial elements would not meet the needs of the villagers and the community would suffer as a result. The parties also sought to avoid locations that might give rise to possible conflicts with neighboring villages or that were too near to the mine infrastructures.

AngloGold Ashanti formed a Steering Committee to identify and evaluate possible site locations and to report their findings to AngloGold Ashanti's management. This committee was led by the Governor of the Kayes Region and included Company representatives, regional authorities and village leaders. The Steering Committee then hired two

non-governmental organizations (NGOs) as consultants to aid in the decision-making process: the Institute of Natural Resources (INR), based out of the University of Natal in Pietermaritzburg, South Africa; and the *Association d'Etude et de Mise en Valeur des Ressources Naturelles et des Institutions* (ASERNI), a Malian NGO. Both INR and ASERNI were involved in the original EIA in 1994 so they were familiar with the villages, the project, and the people.

The Steering Committee assigned INR and ASERNI two tasks. The first task was to produce socioeconomic and land-use planning studies for several sites. These studies provided important insights. Primarily, they provided baseline statistics that could be used for comparisons with the new villages. These statistics also included a full census of families in the affected villages as well as reports on property and other significant material possessions. This census was meant to prevent "free riders" from later claiming injury or rights to compensation for which they were not entitled. Furthermore, these studies also gave detailed information about each possible site, including access to natural resources and suitability.

Second, INR and ASERNI participated in the actual selection of the new village sites. Both NGOs gave their recommendations as to the most suitable sites for each village. The Steering Committee considered these recommendations along with the reports conducted by two Malian government agencies responsible for social affairs and public works, the *Direction Regionale d'Action Sociale* (DRAS) and DRUC.

After reviewing the reports and recommendations of INR, ASERNI, DRAS, and DRUC, members of the Steering Committee passed their determinations onto AngloGold Ashanti, along with all supporting factual information and reports. AngloGold Ashanti then began extensive discussions and negotiations with the Steering Committee members, the Malian government, and village leadership regarding the recommended village sites. The new Sadiola and Faraba-

kouta village locations were selected in August 1997.

AngloGold Ashanti permitted the villagers to have a significant amount of input in selecting village locations. For instance, the site that was ultimately selected for the new Niamboulama hamlet was not the first choice of AngloGold Ashanti, the Malian government or the NGOs. Instead, all parties accepted the selection made by Kourketo, a larger village with ownership rights over the relatively large area of fertile land known as the Niamboulama hamlet. Kourketo's leaders were concerned that the site chosen by AngloGold Ashanti was too far from Kourketo. Kourketo's leaders feared that they would lose ownership over Niamboulama as a result. In an effort to give credence to Kourketo's ownership rights, AngloGold Ashanti, the Malian government and the NGOs ultimately conceded to Kourketo's demands. In 1999, the parties approved Kourketo's choice for the new Niamboulama hamlet.

Resistance by individual villagers to the new sites was unexpectedly limited. AngloGold Ashanti did, however, encounter resistance in Farabakouta from one particularly prominent individual, who was ultimately permitted to establish his own village at his chosen site. AngloGold Ashanti complied with all of these requests.

Construction and structural issues

During the resettlement process, AngloGold Ashanti discovered that one of the most challenging aspects of resettlement is to design and construct a new village. Once the sites for the new villages were selected, INR prepared a Resettlement Action Plan (RAP). The RAP was then approved by AngloGold Ashanti, the Malian government and the village leadership. This section considers AngloGold Ashanti's actions regarding the design of the villages, the architectural plans for the village structures, AngloGold Ashanti's decision to use local contractors to build the villages, and the materials AngloGold Ashanti used to construct the villages.

Laying out the new village plan

AngloGold Ashanti based the design and layout for the new villages on extensive discussions with the Malian government, consultants, village leaders, and the families themselves. The result was a new, more modern, grid-like layout that allocated comparatively more land to each family. AngloGold Ashanti altered the new village layout mainly because the Malian government required that the new villages be designed to fit modern town layouts. AngloGold Ashanti agreed that a symmetrical, grid pattern was preferable to the old village layout, which was unstructured and did not provide each family with much land. The villagers welcomed the new layout as well because it provided them with extra space between homes and larger plots.

AngloGold Ashanti chose to allocate plots to families in a manner consistent with the plot allocation in the old villages. The intent behind this allocation scheme was to maintain the social order in the old villages that had dictated plot allocation. For example, someone who lived next door to the village chief in the old village would continue to live next door to the village chief in the new village. AngloGold Ashanti, the Malian government, and consultants, as well as villagers, all determined that this social order was important to the community and had to be maintained in the new villages.

Having decided a general layout, AngloGold Ashanti then commissioned architects to draw the initial plans for the new villages. The initial plans were based on various land and socioeconomic surveys, the design of the existing villages, dwelling sizes in the original villages, families' preferences for dwelling sizes, and anticipated and requested infrastructural needs. These plans were then modified on the basis of discussions and consultations with village leaders and families. The designs and layouts were then verified and approved by the appropriate Malian agencies, as required by Malian law.

In drawing the architectural plans, AngloGold Ashanti instructed the architects to include village access roads, storm water drains, and other public amenities such as a mosque, a central meeting place and a football field, even though these facilities did not exist in the original villages. In Sadiola, AngloGold Ashanti replaced certain government facilities, such as the district administrative complex, the agricultural facilities, the forestry office, the clinic and the primary school. AngloGold Ashanti also constructed a secondary school for the district as part of its contribution to community development.

Prior to building any structures on the new village sites, AngloGold Ashanti needed to clear these areas of trees. The tree clearing was necessary for two reasons. First, there were many trees growing within the perimeter of proposed structures. Some trees also posed a physical hazard to builders and contractors. Second, clearing trees complied with villagers' beliefs that the trees on the plot provided refuge for evil tree-dwelling spirits. In an effort to respect this concern, AngloGold Ashanti charged the village men with determining which trees should be felled. These men identified almost all trees on the site. Rather than objecting, AngloGold Ashanti complied with these requests and cleared almost every tree.

The result of cutting down so many trees has not been positive. Currently, one of the main complaints AngloGold Ashanti receives about the new villages is the lack of adequate shade from the heat. These complaints are a direct result of felling so many shade-trees in an effort to comply with the villagers' request. Although, AngloGold Ashanti has attempted to remedy the situation by importing new trees to the area, many of these trees have died due to lack of maintenance, such as regular watering. Additionally, the trees that have been maintained will not provide adequate shade for a number of years.

Architectural plans for rebuilding structures

The next area of consideration was designing the villagers' homes. AngloGold Ashanti determined that the most cost-effective way to rebuild the villages would be to design one home and replicate it across the village. However, AngloGold Ashanti recognized that individuality and uniqueness was important to the villagers. AngloGold Ashanti also acknowledged that some variations were necessary for practical reasons, such as heat reduction, individual necessity, needs of disabled persons within the home, and so forth.

In an effort to balance these competing interests, AngloGold Ashanti came up with a feasible solution. AngloGold Ashanti commissioned the architects to design a series of standardized homes with the regular input of ASERNI, DRUC and village leadership. Upon completion of these designs and approval by the respective agencies, sample structures were built in each village. Families were permitted to examine and explore these potential homes and select which of the designs they preferred. AngloGold Ashanti also adjusted designs on the basis of comments made by the villagers. The Company approved additional designs for families whose original homes were unique in some way. In those cases, the architect integrated the unusual aspects of the original dwellings into the standard dwellings for specific families who made that request. The villagers who were permitted to incorporate certain aspects of their original homes into the new structures were generally pleased with the result. Additionally, it gave these particular villagers a sense of control over the relocation and rebuilding process, further alleviating possible future tensions.

Once the home designs were selected, construction of the homes began. AngloGold Ashanti closely monitored the construction process to ensure that homes were built according to the agreed-upon specifications. In addition

to AngloGold Ashanti's direct supervision of the local contractors (as discussed in more detail below), ASERNI, INR and DRUC regularly inspected the construction process and provided feedback to AngloGold Ashanti. Village leaders and the villagers themselves also monitored the construction process. AngloGold Ashanti encouraged villagers to voice their concerns and doubts during the construction phase, particularly in connection with the quality of workmanship and materials used.

Local contractors

AngloGold Ashanti selected local contractors to build the new villages instead of Company engineers to maintain good relations with the villagers, provide employment opportunities, and abide by local customs. This decision created many jobs locally and ensured that the villages were built by people who were familiar with the building materials, the structures themselves and their uses.

AngloGold Ashanti's decision to use local contractors, however, brought about two major concerns. First, AngloGold Ashanti found that the local contractors required significant supervision. Without AngloGold Ashanti's constant monitoring, contractors often deviated from the agreed-upon plans and designs. Additionally, the local contractors often had difficulty meeting these deadlines. Eventually, AngloGold Ashanti's Engineering Department was forced to oversee the construction of the villages on a site by site basis.

Second, local contractors could not acquire building materials as easily as AngloGold Ashanti originally anticipated. Local contractors were unable to acquire the large amount of materials necessary to complete the large project without the backing of the Company. Ultimately, AngloGold Ashanti took over the procurement and distribution of building materials. This unanticipated, additional responsibility, along with the increased supervision, significantly increased the cost of constructing the new villages.

AngloGold Ashanti also struggled with the best method to pay the local contractors for their work. AngloGold Ashanti decided to authorize payments at various stages of construction, dependent on progress, with a 10% guarantee retained for a six-month period. The parties met weekly to monitor the resettlement process, including progress with construction activities and associated issues. Around the six-month period, AngloGold Ashanti representatives examined all structures. The monitors would identify structural problems and instruct contractors to make repairs. AngloGold Ashanti would not authorize payments until the contractor completed the repair. By the time the villages were completed, all contractors had been paid the full agreed-upon amount.

Choosing materials

Like most Malian rural areas, the majority of the family homes in the old villages were huts made of mud brick and thatched roofs. AngloGold Ashanti was not bound to rebuild the dwellings using these materials and, along with the Malian government, determined that it was in the villagers' best interest to build the new villages with more permanent materials. Consequently, the homes and structures were built with new brick and roofing materials.

The Company first considered using cement brick in place of the mud brick used in the original villages. In the urban areas of Mali, the most commonly used permanent dwelling material is cement brick. This cement, however, is very expensive and difficult to obtain in mass quantities in the western region, forcing AngloGold Ashanti to look for suitable alternatives. After much discussion and investigation, the parties involved chose the popular South African building material, cement-laterite brick. AngloGold Ashanti imported four brick-making machines from South Africa. The Company then commissioned sample structures to be built using the cement-laterite brick and conducted tests comparing the destructibility of

the cement-laterite brick against the Malian cement. In Sadiola and Farabakouta, the tests were successful and all parties accepted the use of the new brick. (In the Niamboulama hamlet, however, the cement-laterite brick was rejected due to costs and scheduling delays). Making enough brick to build the required structures in each of the new villages resulted in a significant boost to the local economy. AngloGold Ashanti employed 140 local villagers for a nine-month period to manufacture the 1.4 million bricks necessary to rebuild the two villages.

AngloGold Ashanti opted to use different roofing material in the new villages as well. Rather than rebuilding the structures with thatch, which had been the roofing material used in the old village, AngloGold Ashanti constructed the new roofs using corrugated iron, fitted on the inside with insulation.

Considering villagers' health and safety

AngloGold Ashanti, the Malian government, the consultants and the village leadership understood that the villagers' continued health and safety after the resettlement would be a vital element to the success of the resettlement. There are three main areas where AngloGold Ashanti and the Malian leadership focused their efforts in support of the villagers' continued health and safety. They included ensuring access to clean water, providing adequate food supplies, and installing and updating the sanitation systems. Focusing on these areas, the Company planned and installed modernized systems and infrastructure to improve the daily life of the villagers. But although the parties were creative in their approaches to these issues, the results were mixed. AngloGold Ashanti and the villagers have found maintenance of some of these modernizations to be a continuing source of difficulty. Since their installation, many of these systems have been either neglected or abandoned.

Clean water supply

In Mali, access to clean drinking water is a daily concern. In the western part of Mali, most villages depend on groundwater supplies during the dry season. The Sadiola region is particularly vulnerable to water crises. One socioeconomic study of the region cites claims that “the Sadiola region has twice as many inhabitants as the average Malian rural municipality, as well as one of the country’s most lucrative goldmines, but has less than half the average number of outdoor drinking water spots.”³⁸ Without adequate access to groundwater supplies or a reasonable alternative, the villages would not endure.

AngloGold Ashanti attempted to address this problem in the new villages by installing a reticulated water supply system in Sadiola and Farabakouta (rather than traditional hand pumps). When the decision to resettle the villages was finalized, the Malian government requested that AngloGold Ashanti invest in updating the water retrieval system with a reticulated water system.³⁹ AngloGold Ashanti’s consultants disagreed with the government’s assessment. The mine’s advisors warned that the new system was a major departure from local norms and that the villagers might be resistant to its use. AngloGold Ashanti also voiced concerns that the villages did not have the funds available to cover the new water supply’s expenses, including pump maintenance, the diesel fuel required to run the system, and operator salaries. Yet the government convinced AngloGold Ashanti that the new water system was a necessary addition and important to modernizing the villages.

Thus far, the villages have struggled to take full ownership of the reticulated water supply systems. Although the new systems provide villagers with a simpler method to obtain clean water, the villagers have not yet taken over the management and operation of the water systems. When AngloGold Ashanti voiced its concerns

about funding the new water system, the government suggested that village leadership tax the village residents. The village leadership never instituted this tax. An internal report conducted by AngloGold Ashanti theorized that the expense of operating the water system is, most likely, the reason behind the village officials’ lack of interest in operating the water system.⁴⁰ A more accurate assessment of the villages’ commitment to the success of the reticulated water supply system prior to modernizing the water system could have revealed the villagers’ unwillingness to change their water collection methods. As a result of this unwillingness, AngloGold Ashanti continued to fund and oversee the operation of the water systems in Niamboulama until June 2005.⁴¹ The Company intends to discontinue funding and operating the water supply systems in Sadiola and Farabakouta in 2006.⁴²

Food supply

A sustained food supply is similarly crucial to a village’s survival. AngloGold Ashanti’s resettlement project had to address this issue adequately in order to secure the success of the new villages. Much of the villagers’ food supply came from farming. Since it would take the new villages at least one season to harvest a crop, AngloGold Ashanti included provisions for food distribution during the first year of the new villages’ existences. AngloGold Ashanti determined that the best way to allocate the foodstuffs to the villagers was to create a grain bank. The Company provided five tons of millet as “capital” using part of the “sacrifice fee” to fund the bank. The concept was that one could withdraw food from the “grain bank” as a loan during hard times and repay after a successful crop.

AngloGold Ashanti intended the banking system of food allocation to be a short-term solution only and to encourage villagers to become self-sufficient. The banking system, however, was not successful as the villagers

relied more and more on the bank’s grain supply. Eventually, the bank turned to hand-outs and collapsed soon after. When the food provisions expired, the community wanted the Company to put more food in the bank even though the villagers had been successful in their agricultural endeavors. AngloGold Ashanti refused because the Company felt that providing more food was unnecessary and would stifle the villages’ sustainable development as independent communities. The bank system has since been abandoned.

Villagers no longer rely on the bank food system and are currently somewhat self-sufficient in obtaining and maintaining their food supply. Presently, the villagers farm or buy the food that they need. Additionally, in 2005, AngloGold Ashanti created and funded the Integrated Development Action Plan (IDAP) to reinforce the agricultural activities and capacity building of the communities in the villages surrounding the mine. AngloGold Ashanti continues, however, to step in when natural disasters or other unforeseen circumstances require. For example, in 2003, Mali suffered from a poor rainy season, leading to significant drought. As a result, most villagers were not able to cultivate or purchase enough food. AngloGold Ashanti provided 100 tons of cereals to the surrounding villages to alleviate some of the effects of the drought and lessen the burden on the villagers. These are isolated assistance programmes designed only to provide aid in disastrous situations.

Sanitation

A third area of modernization for health and safety deals with matters of sanitation and waste disposal. AngloGold Ashanti decided that the best and simplest course of action would be to install modernized versions of the old villages’ toilets and domestic waste disposal. There have been challenges in both areas.

AngloGold Ashanti agreed that the new villages should have more

modern toilet systems. INR recommended *pungalutho* (“no smell”) toilets in the project design. These toilets have proved to be successful in modernized villages throughout southern Africa. After some discussion with the villagers, other NGOs and the Malian government, AngloGold Ashanti agreed that, although the system was expensive to construct, the *pungalutho* toilets would be installed. AngloGold Ashanti conducted education sessions to train the villagers on the use and maintenance of these new toilets. The toilets were also renamed in the language of the villagers to “kassatan” (also meaning “no smell”) toilets.

But, despite AngloGold Ashanti’s efforts, the villagers have abandoned the toilets, which are no longer used for their intended purpose. Early in the construction phase, some of the toilets started to develop an odor. Some villagers developed their own remedies for the smell, touted the remedies as “proven,” and instructed other villagers on how to “dissipate” the smell. The remedies actually exacerbated the odor by destroying the bacteria critical to the operation of the system. The villagers declared the toilets “useless” and refused to use them. Villagers converted some of the structures for other uses and have reverted to the traditional pit latrine used in the old villages.

Domestic waste disposal has been a second area of sanitation concern. Until recently, most of the villagers’ waste consisted of natural, biodegradable products. Villagers would leave these products in compost piles on the outskirts of the village and they would eventually decompose. The villagers, however, were recently introduced to plastics. The villagers have not been properly disposing of these items and continue to leave them on the ground with the biodegradable waste. In an attempt to rectify the situation in the new villages, AngloGold Ashanti installed waste disposal sites on the perimeters of the new villages and instructed villagers to place their waste inside these containers, rather than leaving them on the ground. This has been only partially successful and, currently,

the new villages suffer from a significant litter problem. This problem is partly due to the villagers’ resistance to using these containers. Additionally, neither the government nor the villages established a communal system for the collection and transportation of waste to pits outside the village.

The lesson that a Company can take from these three health and safety issues is that new projects may not be effective if villagers are not ready to incorporate proposed modernizations into their daily way of life. AngloGold Ashanti’s experience indicates that even when technology could improve the lives of a community, if there is resistance to its use, the attempt at introducing the new technology may not be successful.

Moving

The next phase of the village resettlement was the transfer phase. Generally, villagers moved to their new villages without incident. The only complication AngloGold Ashanti faced was determining the best method to transport villagers’ personal items. The Company was concerned that the villages would not be able to manage the move if each family was responsible for handling its own items. AngloGold Ashanti was also concerned, however, that moving the items for them would result in lost or damaged items, as there could be logistical difficulties in getting the items back to the proper family.

Ultimately, AngloGold Ashanti decided to accept the burden of transporting the items. To accomplish the move, the Company gave each family a container within which they were to pack their personal belongings. Once the families settled into their new homes, these containers were delivered. AngloGold Ashanti’s fears were not realized, as there were few claims of damaged or lost items.

After the move was complete, villagers were permitted to salvage all useful materials remaining in the old villages both before and after the structures were demolished. Villagers took with them bricks, roof sheeting, door and window

frames, and the like, which were used in various ways in the new villages or sold as scrap.

Accommodating original village inhabitants versus newly arrived job seekers

The promise of new jobs at the mine construction sites brought a large influx of individuals looking for work. The number of arrivals was much larger than AngloGold Ashanti expected, and all parties became concerned about how to integrate these “new arrivals” into the communities and the villages. The traditional village system would require new arrivals to negotiate with village leaders for land, work and assimilation among the original villagers. The resettlement complicated this traditional system. The village leaders saw integration as the responsibility of AngloGold Ashanti and the regional government, but the Company did not believe that it had a duty to compensate these new arrivals. AngloGold Ashanti and the Malian government had placed a limit on the number of shelters that would be built in the new village to maintain as much consistency as possible between the size of the old village and that of the new one. Through this mandate, AngloGold Ashanti and the government had intended that the old procedure for entrance into the community would continue. Consequently, AngloGold Ashanti refused to make accommodations for the new arrivals in Farabakouta and Sadiola. But as this methodology failed, AngloGold Ashanti took a different approach in Niamboulama.

In Farabakouta and Sadiola, AngloGold Ashanti allowed the regional government to deal with and accommodate the new arrivals. The regional government oversaw the allocation of plots to the new arrivals within the new villages and provided assistance to the new arrivals. As time passed, more and more new arrivals migrated to the new villages. AngloGold Ashanti quickly realized that without the Company’s help, the government would not be able to accommodate the new arrivals and the resettlement

project would fail to meet its deadlines. AngloGold Ashanti therefore became increasingly involved with the settlement of new arrivals in the new villages.

Consequently, AngloGold Ashanti cleared an area for the new arrivals within the new Sadiola village limits. The plots assigned to new arrivals, however, were less desirable than the ones allocated to original inhabitants. The new arrivals who had moved to old Sadiola after the resettlement was announced were allowed to buy plots that were not otherwise assigned. SEMOS paid the cost of purchasing the plots for some of the new arrivals and also helped the new arrivals to obtain building materials and construct dwellings.

Initially, the new arrivals were disappointed with their resettlement in Farabakouta and Sadiola. They felt that AngloGold Ashanti treated them poorly in comparison to the original inhabitants. The new arrivals also found that their resettlement was poorly planned and that they suffered as a result. They have felt particularly hindered by having less desirable plots, which are located much further from the main road and provide less access to business opportunities. Moreover, some of the new arrivals who had plots along the road in old Sadiola prior to announcing the resettlement were not allocated similarly situated plots. Currently, however, the new arrivals have been almost fully integrated into their communities and participate in village management.

AngloGold Ashanti attempted to internalize the lessons learned in Sadiola and Farabakouta when planning for and accommodating the new arrivals in Niamboulama. Instead of ignoring the problem, the Company specifically included accommodations for the new arrivals in the planning phases. AngloGold Ashanti's differing strategy in Niamboulama appears to have been effective. Many new arrivals have since opted to settle in Niamboulama over Sadiola, Farabakouta or other nearby villages. Moreover, new arrivals in Niamboulama appear to be more satisfied than those

in Sadiola and Farabakouta. Additionally, Niamboulama's original inhabitants have been more open and accommodating. Six months after construction, there were approximately 400 new arrival households in Niamboulama. Since that time, village leaders and the local community have permitted many additional new arrivals into the Niamboulama hamlet. Most of them are renting homes that had been built for original inhabitants in the Niamboulama hamlet.

In retrospect, AngloGold Ashanti could have recognized and anticipated that building the gold mines and the new villages would result in a large influx of new people looking for work. The Company might have also predicted that the government lacked the resources and capacity to handle the influx of people to the area. The Company recognizes and admits that its plans with regard to the new arrivals were "short-sighted" and driven by cost considerations. AngloGold Ashanti learned from its errors and has since taken steps to correct the problems in Farabakouta and Sadiola.

Learning from AngloGold Ashanti's experience

AngloGold Ashanti recognized the importance of consultation, communication and flexibility

AngloGold Ashanti's resettlement strategy involved extensive community involvement as well as constant negotiation and communication between the Company and the villagers. AngloGold Ashanti created an environment of inclusion and was an active participant in all discussions. For example, AngloGold Ashanti created a joint Public Consultation and Disclosure Plan (PCDP) for Sadiola and Yatela, which continues to operate. The focus of the PCDP is to provide a forum for villagers to give their input and to resolve their grievances.⁴³ The PCDP was one of the tools that ensured that the villagers' rights were protected throughout the resettlement process.

Hiring consultants and other individuals to facilitate communication was

another important step AngloGold Ashanti took to preserve the villagers' interests. AngloGold Ashanti hired two independent consultants, INR and ASERNI, to judge, monitor and report on the social and economic consequences of the resettlement. ASERNI was specifically hired to provide AngloGold Ashanti and the management team with "an understanding and a respect for local culture and traditions" and to ensure that these values were respected throughout the process. These consultants provided the Company with independent review and recommendations on how to resolve contentious issues as well as to spot and report on issues of which AngloGold Ashanti may not have been aware.

AngloGold Ashanti also appointed a full-time community liaison officer to encourage communication between villagers and the Company. This liaison, appointed at ASERNI's suggestion, acted as a facilitator (*animateur*). A liaison was based in each of the three villages and was responsible for creating and maintaining an open channel of communication between villagers and AngloGold Ashanti. The hope was that villagers would feel more comfortable voicing their opinions and concerns to this facilitator, who would then report those concerns to the Company. The facilitator proved to be invaluable to the villagers, as well as the Company, and the flow of communication has continued to this day.

Stressing the importance of open communication, AngloGold Ashanti credits ASERNI, the community liaison officer and village facilitators with the speedy and successful resolution of many disagreements by conducting many dispute resolution meetings and easing communications between the Company and villagers. Such personal involvement gave AngloGold Ashanti management better, more accurate information than the Company would have otherwise received. This information led to positive results that proved to be crucial at numerous points during the resettlement. AngloGold Ashanti's emphasis on flexibility, compromise and openness ensured the completion of the resettlement within the projected time frame and the relative satisfaction of all parties.

Increased costs

As the resettlement process progressed, AngloGold Ashanti found that expenses continued to escalate beyond projected costs. In an effort to reduce expenditures, AngloGold Ashanti revised the budget at least three times during the resettlement project. The expenses accumulated from prolonged negotiations, the revision of plans as part of those negotiations' resolutions, the arrival of an unanticipated number of new arrivals to the villages, and continued maintenance and management of the water supply systems. But since timely completion of the resettlement process was one of AngloGold Ashanti's top priorities, the Company agreed to these costs as necessary. Meeting the agreed-upon deadlines meant that the resettlement had no effect on mining operations or explorations of the Sadiola or Yatela mines. As a result, the additional, unanticipated costs were offset by the timely generation of revenues by the gold mines.

Recognizing and respecting villagers' religious and traditional beliefs

AngloGold Ashanti made accommodating villagers' faith, traditions, and beliefs one of its top priorities. For example, AngloGold Ashanti accommodated the villagers' fears of evil tree-dwelling spirits when picking new village sites. Additionally, AngloGold Ashanti and the villagers conducted traditional ceremonies, which AngloGold Ashanti funded and attended, during various phases of the resettlement process in compliance with the villagers' requests.

That is not to say, however, that AngloGold Ashanti obliged all of the villagers' requests, as full compliance was not always possible. In these circumstances, AngloGold Ashanti attempted to work with villagers' to the full practical extent without compromising villagers' beliefs and existing customs.

Continued monitoring after the resettlement

AngloGold Ashanti hired the impartial and independent NGO, INR, to monitor the resettlements throughout the process. This monitoring continued after the resettlements were complete.

INR produced quarterly reports during various phases of the resettlement. The purpose of these reports was to provide consistent and independent reporting on the resettlement plan, as well as to collect and record data for the evaluation of the villagers' lives before the resettlement as compared to during and after. INR's methodology consisted mostly of interviewing village leaders, corporate management and other implementation agents, such as local contractors, architects and government representatives. AngloGold Ashanti also gave INR access to key documents on both the old and new villages. INR additionally identified both existing and potential issues as well as recommendations. Once INR's reports were completed, they were circulated to all stakeholders in the mining and resettlement projects. Thus far, INR has produced five monitoring reviews. The last report was completed after the villagers had had time to settle into the new villages. AngloGold Ashanti continues to try to comply with the recommendations made in these reports. Furthermore, the continued and consistent monitoring has provided AngloGold Ashanti with the opportunity to foresee problems before they arise, to anticipate future issues, and to make changes in order to prevent the escalation of existing problems.

Recommendations derived from AngloGold Ashanti's experience

Resettlement of a community should be attempted only in drastic situations as mismanagement of a resettlement process can have disastrous effects on the community's culture, health and prosperity. Where a community's resettlement cannot be avoided, however, AngloGold Ashanti's implementation of its resettlement plan serves to illustrate methods for success as well as possible pitfalls. For companies facing the possibility of resettlements, some recommendations based on AngloGold Ashanti's experiences are outlined in Annex 2.

Conclusion: Issues for the future

Looking forward, AngloGold Ashanti is contemplating how future mine closures will affect the surrounding communities, particularly those that were resettled as a result of the gold mines. The closures were originally planned for 2008 and 2012. However, due to new development projects (Deep Sulphide at Sadiola and Pushback projects at Yatela), Yatela may not close until 2010, and the Sadiola mine may not close until 2024.

Using methods developed during the resettlement process, AngloGold Ashanti is currently preparing the villagers for the impending mine closures through systems of open communication and negotiation. In 2005, the Company instituted an Integrated Development Action Plan (IDAP) that focuses on ensuring sustainable livelihoods for the local villagers after the mines close. In addition, AngloGold Ashanti hosts an annual stakeholders' consultation workshop. These workshops bring together Company representatives, NGOs, the Malian and local governments, and other parties involved in the Sadiola and Yatela mines. AngloGold Ashanti recognizes that it cannot make decisions for the community, so the Company has placed great value on giving the villagers tools and resources to plan and prepare for the future. Thus, the theme of the 2006 Annual Meeting was the upcoming mine closures. For three days, approximately 100 individuals discussed and created action plans that would best prepare the communities for the mine closures. A follow-up committee was then developed to continue examining the recommendations made at the Annual Meeting. Also drawing from its experience during the resettlement process, AngloGold Ashanti has already commissioned independent consultants to monitor and report on the villages for at least five years after the mines' closure. The Company hopes these future reports will provide insight into ways the Company can best help the villagers cope.

ANNEX 1: WHERE TO GO FOR GUIDANCE	
Some countries have national guidelines for resettlement. Where they do not, a corporation can consider the following documents and guidelines.	
The United Nations Global Compact www.unglobalcompact.org	Principle 1 states that businesses should support and respect the protection of internationally proclaimed human rights; Principle 2 states that companies should make sure that they are not complicit in human rights abuses.
The World Bank Guidelines on Involuntary Resettlement (OP/BP 4.12) www.worldbank.org	Describes World Bank policy and procedures on involuntary resettlement. The theory underpinning the guidelines is that a population displaced by a project should receive benefits in exchange for the relocation.
The IFC's Performance Standard 5 on Involuntary Relocation www.ifc.org	Provides a comprehensive overview of the various factors a company faced with relocating a community may want to consider.
The OECD Guidelines for Aid Agencies on Involuntary Displacement and Resettlement in Development Projects www.oecd.org	Sets forth criteria that aim to ensure that a population displaced involuntarily receives the support it needs and that the community is re-established properly. The Guidelines provide policy objectives as well as suggestions on planning and implementation of a successful resettlement plan.
The Voluntary Principles on Security and Human Rights www.voluntaryprinciples.org	Provides companies with principles and direction on a variety of human rights issues, including involuntary resettlement.
The International Covenant on Civil and Political Rights	See, among others, Article 12, which guarantees all people the right to liberty of movement and the freedom to choose residence.
The International Covenant on Economic, Social and Cultural Rights	See, among others, Article 11, which guarantees all people the right to adequate food, clothing, housing and fair distribution of food.
ILO Convention 169 , Articles 14, 15 & 16	Guarantees indigenous people the right, among other things, to own, control, and use their lands and territories, to participate in decisions concerning the use of their territories and related natural resources, and to not be removed from their lands without their voluntary and informed consent.
The UN Draft Declaration on the Rights of Indigenous Peoples , Articles 10, 26 & 30	

ANNEX 2: RECOMMENDATIONS BASED ON ANGLOGOLD ASHANTI'S EXPERIENCE	
<p>Generally</p> <ul style="list-style-type: none"> › When deciding between two or more options as part of the resettlement, consider which option will result in the least amount of disruption to the communities; › Formulate and possess a thorough understanding of the affected communities, the country's resources, government and infrastructure; › Continually monitor and report on the peoples' progress and the resettlement's impact; › Be cautious of the potential for resettlement to result in landlessness, joblessness, homelessness, marginalization, food insecurity, loss of access to common resources, loss of access to public services, social breakdown, and risks to host populations.⁴⁴ <p>Planning for resettlement</p> <ul style="list-style-type: none"> › Develop a realistic and flexible plan for resettlement; › Be prepared for deviations from the original plan and recognize that unexpected roadblocks will materialize from time to time; › Determine appropriate deadlines from the beginning, taking into account the country's resources, trade agreements, access to materials and transportation systems; › Hire independent consultants from unaffiliated NGOs with proven track records for impartiality; › Anticipate and plan for "new arrivals" who will likely flock to a site of new employment opportunities. 	<p>Consult and communicate extensively with</p> <ul style="list-style-type: none"> › Community leaders › Unrepresented community members › National and local governments › International regulatory bodies › Non-governmental organizations › Human rights agencies <p>Working with the community</p> <ul style="list-style-type: none"> › Begin the resettlement process with a willingness to negotiate and be flexible; › Foster an environment and relationship of trust among all parties within the resettlement process; › Hire liaisons for each affected community to serve as a go-between the company and the community so individuals feel more comfortable voicing their complaints; › Take steps early in the process to minimize the communities' dependence on the company for funds, management, sustenance, etc.; › Communicate to the government and the affected communities that deviations once the resettlement plan is agreed to will have a significant impact on the project's cost and completion; › Manage expectations within the community and do not be afraid to say "no" up front; › Agree to dispute resolution mechanisms in the beginning of the project to deal with problems that arise; › Consider and include a contingency plan for the marginalized, elderly, disabled or otherwise handicapped members of the community; › Focus the community on achieving long-term sustainability and self-sufficiency.

Endnotes

- 1 The company engaged in the village relocation that is the subject of this case study was Anglo American Corporation's Gold Division. Through a series of mergers, the AAC Gold Division became AngloGold Limited in April 1998 and then AngloGold Ashanti Limited in March 2004.
- 2 This right is found in Article 11 of the International Covenant on Economic, Social and Cultural Rights as interpreted by General Comment 7 available at [http://www.unhcr.ch/tbs/doc.nsf/\(symbol\)/CESCR+General+Comment+7.En?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(symbol)/CESCR+General+Comment+7.En?OpenDocument).
- 3 AngloGold Ashanti, Ltd., Corporate Profile, available for download at <http://www.ng.alogold.com/About/Corporate+Profile.htm>.
- 4 Id.
- 5 Id.
- 6 AngloGold Ashanti Ltd., Corporate Fact Sheet, available for download at <http://www.anglogold.com/About/Corporate+Profile.htm>.
- 7 Id.
- 8 Id.
- 9 The information and materials in this case study were obtained from a variety of sources. Most of the facts about the villages, the resettlement, and some of AngloGold Ashanti's decisions were taken from the case study *Four Years After the Move: Village Relocation at Sadiola and Yatela Gold Mines, Mali, West Africa*, A.G. Mackenzie, et al., 2004. Additionally, the author regularly consulted the case study *Sustainability Challenges: Community Development Initiatives at Sadiola and Yatela Gold Mines, Mali, West Africa*, A.G. Mackenzie and J. Pooley, 2002. The author also consulted the publications of certain independent organizations and scholarly articles, citations to which have been included in endnotes throughout the case study. Finally, the author wishes to acknowledge the significant contribution of AngloGold Ashanti and its affiliates to the completion of this case study. In particular, the author would like to thank Paul Hollesen, Charles Loots and Birama Samake, all from AngloGold Ashanti, for providing access to reports, factual information and their insight into the resettlement process.
- 10 AngloGold Ashanti Ltd., 2005 Country Report, Mali, at 2, available for download at <http://www.anglogoldashanti.com/About/Regional+and+Operational+Information.htm>.
- 11 Id. at 3.
- 12 Id.
- 13 The World Bank, Mali Country Brief Overview, available at www.worldbank.org/mali.
- 14 United Nations Development Programme, Human Development Report 2005 available at www.hdr.undp.org/reports/global/2005/pdf/HDR05_HDI.pdf.
- 15 Id.
- 16 Envirolink, 1994. Environmental Impact Assessment of Sadiola Hill Gold Mine, Republic of Mali.
- 17 See Universal Declaration of Human Rights, G.A. Res. 217A (III), art. 3, U.N. Doc. A/810 (Dec. 10, 1948).
- 18 Id.
- 19 Id. at art. 5.
- 20 See International Covenant on Civil and Political Rights, opened for signature Dec. 16, 1966, art. 12, S. Exec. Doc. E, 95-2 (1978), 999 U.N.T.S. 171 (recognizing the rights to liberty of movement and freedom to choose residence); International Covenant on Economic, Social and Cultural Rights, opened for signature Dec. 16, 1966, art. 11, 993 U.N.T.S. 3 (recognizing the rights to adequate food, clothing, housing, and fair distribution of food) (Mali is a State party to the ICESR) [hereinafter ICESR].
- 21 ICESR, supra note 24, at art 11; see also General Cmt. No. 7 of the United Nations Committee on Economic, Social and Cultural Rights on forced evictions.
- 22 Id.
- 23 Id.
- 24 United Nations Global Compact, The Ten Principles, available at <http://www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/index.html>.
- 25 Id.
- 26 Simmons, Marco, *The Emergence of a Norm Against Arbitrary Forced Relocation*, 34 Colum. Hum. Rts. L. Rev. 95, 98 (2002).
- 27 Id.
- 28 Id.
- 29 Id.
- 30 Comprehensive Study Prepared by Mr. Francis M. Deng, Representative of the Secretary-General on the Human Rights Issues related to Internally Displaced Persons, Pursuant to Commission on Human Rights Resolution 1992, U.N. ESCOR, Comm'n on Hum. Rts., 49th Sess., Annex, Agenda Item 11(a), P 25, U.N. Doc. E/CN.4/1993/35.
- 31 These are concerns noted in the MMSD 2002 Report, *Breaking New Ground: The Report of the Mining, Minerals and Sustainable Development Project*. Earthscan Publications, London.
- 32 Sheridan Bartlett, Urban Children and the Physical Environment, City University of New York and the International Institute for Environment and Development (London), available at: <http://araburban.org/childcity/Papers/English/Sheridan%20Barlett.pdf>.
- 33 Performance Standard 5 is available on the IFC's website, www.ifc.org. See also World Bank Group, Operational Policy 4.12: Involuntary Resettlement, Dec. 2001 (Revised Apr. 2004), available at <http://lnweb18.worldbank.org/ESSD/sdvext.nsf/65ByDocName/Policy>.
- 34 Organisation of Economic Co-operation and Development, Guidelines for Aid Agencies on Involuntary Displacement and Resettlement in Development Projects (1992) available at <http://www.oecd.org/dataoecd/37/27/1887708.pdf> [hereinafter OECD Guidelines].
- 35 The OECD Guidelines may be obtained on the OECD's website, www.oecd.org. See supra note 54, at Introduction.
- 36 See Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Miloon Kothari 2006, U.N. ESCOR, Comm'n on Hum. Rts., 62nd Sess., Provisional Agenda Item 10, U.N. Doc. E/CN.4/2006/41.
- 37 The majority of the facts about the villages, the relocation and some of AngloGold's decisions were taken from the case study *Four Years After the Move: Village Relocation at Sadiola and Yatela Gold Mines, Mali, West Africa*, A.G. Mackenzie, et. al., 2004 [hereinafter *Four Years After the Move*].
- 38 Jul-Larsen, Eyolf, et al., "Socio-Economic Effects of Gold Mining in Mali: A Study of the Sadiola and Morila Mining Operations," Chr. Michelsen Institute Report, at 19 (2006).
- 39 *Four Years After the Move*, supra note 58, at 9.
- 40 Id.
- 41 AngloGold Ashanti, Ltd. 2005 Country Report, Mali, at 1, available for download at <http://www.anglogoldashanti.com/About/Regional+and+Operational+Information.htm>.
- 42 Id.
- 43 Id. at 5.
- 44 MMSD 2002 Report, *Breaking New Ground: the Report of the Mining, Minerals and Sustainable Development Project*. Earthscan Publications.

AREVA in Niger: A multi-stakeholder partnership to tackle HIV/AIDS

Sylvain Romieu*

Human rights issues addressed

- Access to medicine
- HIV/AIDS
- Diversity and/or non-discrimination in employment
- Privacy
- Social investment and community development
- Sphere of influence

Human rights management practices discussed

- Getting started
- Strategy
- Policy
- Processes and procedures
- Communications

Human rights, standards, tools and initiatives mentioned (beyond the UN Global Compact)

- Business Leaders Initiative on Human Rights
- Extractive Industries Transparency Initiative
- Global Business Coalition on HIV/AIDS

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in Niger

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Abstract

This case study explores the establishment of a multi-stakeholder partnership to tackle HIV/AIDS in a remote region with a high prevalence rate in which AREVA is a

major economic actor.

It describes and assesses the process that brought the partners together to design a joint action plan. Despite their different agendas, the partners shared a common interest in tackling HIV/AIDS that made their cooperation possible. The case study outlines the successes and challenges encountered during this preparatory phase. It seeks to highlight some of the lessons learned in embarking on a multi-stakeholder partnership to help respond to a major human rights issue affecting people that the company considers to be within its sphere of influence. These lessons may be helpful to other companies considering cooperation with other partners to advance a human rights issue, especially in the area of health. It also illustrates one mode of respecting and supporting human rights (the first Global Compact

principle) and how cooperation with actors outside the company has the potential to have significantly more impact than if the company were to act alone. Moreover, in some cases, cooperation with outside actors may be the only way forward.

Company profile

AREVA is the world's leader in nuclear power and is ranked third in electricity transmission and distribution equipment and solutions. With industrial operations in more than 40 countries and a sales network in more than 100 countries, its mission is to expand access to energy through technology solutions for CO₂-free power generation and electricity transmission. Energy is AREVA's core business. AREVA's consolidated sales and net income have risen continuously since the Group was established in 2001. In 2006, sales were 10.86 billion euros, an increase of 7.3% over the previous year. It employs 61,000 people with 73% of its employees based in Europe.

* Sylvain Romieu is a young professional expert working on companies' involvement in development issues. He holds a master's degree in Sustainable Development Management from HEC School of Management, Paris, France, and has previous experience as a consultant for various development organizations, including UNDP in Senegal and Bangladesh. Peer review of this case study was provided by Celina Gore, an expert on the business response to HIV/AIDS. The case study was researched and written with the financial support of AREVA. Information about the sources used in preparing the case study is found in the version posted on the UN Global Compact website: www.unglobalcompact.org.

The AREVA Group has had a presence in northern Niger for more than 30 years. In Niger, AREVA operates through two companies: Somair (63.4% AREVA, 36.6% Nigerien government) and Cominak (34% AREVA, 31% Nigerien government, 25% Ourd of Japan, 10% Enusa of Spain), which operate (mining and milling) a series of uranium deposits of sedimentary origin. Somair and Cominak have produced a combined total of 100,000 metric tons of uranate since operations began in 1971 and 1978 respectively.

These AREVA Group subsidiaries operate near Arlit and Akokan, two mining towns bordering the Sahara Desert in the northwestern part of the country, more than 1,200 kilometres (746 miles) by road from Niamey, the capital of Niger. The 3,400 metric tons of uranium mined in 2006 by the AREVA Group in Niger, the world's fourth largest producer country, represents half of the Group's worldwide production and about 8% of the world's annual uranium production. Uranium is the country's primary export, at 48% of all export revenues.

AREVA employs 1,800 people in the region, which makes it the largest private employer. The ratio of the surrounding population to the employees has risen from 10 to 1 in the 1980s to 60 to 1 today. As such, AREVA is a major economic actor in the region and country on whom many people rely directly or indirectly for their livelihood.

Introduction—AREVA and human rights¹

The AREVA Group became a participant in the UN Global Compact in 2003. That same year, it introduced its Values Charter, which is based on respect for and promotion of human rights. Human rights are explicitly mentioned in the preamble to the Values Charter and in its rules of conduct and principles of action. The specific human rights addressed include non-discrimination, respect for privacy, protection of health and welfare, and respect for human dignity.

In June 2003, the AREVA Group became one of the first French compa-

nies to officially adopt the principles and criteria of the Extractive Industries Transparency Initiative (EITI), with respect to its mining operations.² In June 2006, AREVA joined the Business Leaders Initiative on Human Rights (BLIHR).³ A Francophone initiative called EDH (*Entreprises pour les Droits de l'Homme*), supported by BLIHR and AREVA, was formed in early 2007.

In Niger, where AREVA is a major economic actor, the fight against HIV/AIDS has been one of the cornerstones of AREVA's efforts to respect and support the protection of human rights. HIV/AIDS raises a variety of human rights issues. For example, many people with HIV/AIDS are stigmatized, raising issues of discrimination—one of the most fundamental human rights concepts found in the core human rights conventions. There are also issues connected with differential access to prevention, treatment, care and support, which varies widely around the world. Respecting the privacy of people living with HIV/AIDS is also a key concern and important human rights issue. Access to treatment and HIV/AIDS prevention education also impact on the right to the highest attainable standard of health, which is enshrined in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child. Furthermore, the disease has the potential to have enormous impacts on the enjoyment of other economic, social and cultural rights as, if not effectively treated, the ability to partake in education, work and many other pursuits is severely impaired.

AREVA's efforts to tackle HIV/AIDS in Niger are anchored in its commitments to the first principle of the UN Global Compact ("Businesses should support and respect the protection of internationally proclaimed human rights") and Article 25 of the Universal Declaration of Human Rights ("Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family" and "Motherhood and childhood are entitled to special care and assistance").

AREVA and the fight against HIV/AIDS in Niger

The AREVA Group has been involved in the fight against HIV/AIDS in Niger for several years, addressing the disease among its employees and their families, for a total target population of 20,000. Of the 80,000 people living with HIV/AIDS in Niger, women and children are the hardest hit, representing 53% and 11% of the country's HIV positive cases respectively. The country has 46,000 AIDS orphans living in precarious conditions.⁴

Given the specific features of the mining region in question—i.e., desert land far from urban centers (240 km/149 miles from Agadez and 1,200 km/746 miles from the capital, Niamey)—it became apparent that efforts to effectively tackle HIV/AIDS would be more fruitful if the company teamed up with other actors in the country. With support from the Global Fund to Fight AIDS, Tuberculosis and Malaria and working closely with the Niger government and ESTHER (*Ensemble pour une Solidarité Thérapeutique Hospitalière en Réseau*, or Network for Therapeutic Solidarity in Hospitals), the French public interest group, the AREVA Group sought to leverage the impact of its contribution to public health in the regional population via a strong public-private partnership.

Following an 18-month process, an agreement was entered into on 1 December 2006 between AREVA, the Nigerien government (Ministry of Health and Disease Control, Ministry of Mining and Energy) and the *Coordination intersectorielle de lutte contre le SIDA* (CISLS, or joint coordination for the fight against AIDS) and ESTHER, with the aim of improving efforts to prevent the spread of HIV/AIDS, and to provide screening and care for people living with the disease throughout the Agadez region. The partnership is to last three years.

The public-private partnership

Since the commencement of its mining operations in northern Niger, the AREVA Group has fully funded the two mine hospitals, which provide health care to the

Project timeline	
2004	AREVA becomes a member of the Global Business Coalition on HIV/AIDS (GBC ⁵).
End of 2004	The Global Fund proposes a public-private partnership in Niger to AREVA.
March 2005	First joint mission of AREVA/Esther.
March 2005–November 2006	Dialogue and consensus building among the partners: <ul style="list-style-type: none"> • development of a written proposal by AREVA • discussion and revision of the proposal by the partners
October 2005	The chief medical officers of AREVA's mine hospitals design an action plan to fight AIDS that will provide substance to the public-private partnership agreement.
June 2006	The ESTHER process: An agreement in principle for a Franco-Niger hospital agreement is signed between the French and Nigerien Ministries of Health. Confirmation of interest by the Nigerien Ministry of Health in the overall approach of the public-private partnership.
1 December 2006	Signing of the public-private partnership.

entire community: employees, dependents and local communities.

To help tackle the high prevalence of HIV/AIDS in the region, the mining companies set up a system for access to anti-retroviral drugs for employees and dependents via a partnership with the French Red Cross and the *Centre de Traitement Ambulatoire* (CTA, Outpatient Treatment Centre) in Niamey. However, the company was keen to find the best response to the threat of HIV/AIDS to employees, their dependents and the entire regional community. The Group's subsidiaries considered three alternatives:

1. To continue along the same path, namely to limit access to antiretroviral drugs to employees and their dependents;
2. Unilaterally take charge of health care for the entire regional population; or
3. Facilitate a partnership approach to prevention and health care for the entire population with clearly defined responsibilities for each regional party.

The third alternative was preferred. As a private entity, the AREVA Group reached the conclusion that its role should be to help improve the quality of health care as well as to

strengthen local capacities, i.e., the public health care system and civil society initiatives. Thus, when they were approached by the Global Fund at the end of 2004 and, after seeking advice from ESTHER, AREVA was open to the concept of cooperation with the Nigerien health agencies. It should be noted that this approach is broadly consistent with the Sysmin⁶ project funded by the European Union, which seeks to bolster public health organizations in the Arlit district.

The key principles of this approach are:

- integration with the national health program
- long-term partnership
- strengthening of local capabilities
- an integrated approach combining prevention with screening and treatment
- a clear definition and sharing of roles among the partners.

The signing of the public-private partnership agreement on 1 December 2006 sealed the partners' determination for coordinated action on a comprehensive programme for fighting HIV/AIDS throughout the Agadez region.

Assessment

A. Corporate goal: Taking effective action against AIDS

1. The fight against AIDS in the Agadez region, 1997–2004

a) *First cases of HIV/AIDS: Fear of ostracism*
The mine hospitals established and funded by AREVA detected Niger's first cases of AIDS in the Arlit region at the end of the 1980s. The physicians did not yet have drugs or special training to care for the disease, and it was difficult for them to provide patient care. Regular, targeted care for these patients was provided by a dermatologist-venereologist beginning in 1997. Patients suffering from HIV/AIDS were received like patients with skin problems to protect their confidentiality.

At the end of the 1990s, the hospital physicians recommended an action plan to energize the community in the fight, to raise awareness and to provide condoms and antiretroviral therapy (ART). Peer educators from the workforce were trained and served as additional support to medical personnel for raising awareness. The Nigerien subsidiaries accepted and funded the plan. In the early days, the mechanism for medical reimbursements to AIDS patients ran into the thorny issue of confidentiality, since employees with the disease had to request reimbursement from administrative services. As a result, some patients did not put in claims for reimbursement, for fear of ostracism by their families, colleagues and the community at large.

b) *The first milestone: Employees suffering from AIDS return to work*

A significant milestone occurred in early 2000, when some employees returned to work, including a 43-year old AIDS patient who weighed only 38 kilograms (84 pounds). Word of mouth began to spread that the therapy appeared to be working. Those who were

thought to be lost gained new courage and were even able to have a normal work life. This helped to bolster the credibility of the programme recommended by the subsidiaries' physicians.

c) Partnership for health care and guarantee of confidentiality

In 2004, a partnership agreement was signed with the French Red Cross and the Niamey outpatient treatment center covering health care and patient management for employees of the mining companies and their dependents, and the training of company personnel (medical and paramedical, educator peers and information/awareness-raising). By ensuring patient confidentiality through medical evacuation to Niamey, the agreement allowed more patients to agree to receive treatment.

d) General assessment: limited impact

Although the programme met the needs of identified patients by giving them access to anti-retroviral therapy and ensuring follow-up care, it did not result in the screening of the 1,800 employees and their families (20,000 people), or screening and access to treatment for the local community (100,000 people). It also did not improve health care services at the public hospitals in Arlit and Agadez. Although it generated significant results, with 26 people benefiting from antiretroviral therapy, the impact of the programme was limited.

2. The fight against AIDS becomes an international strategy for the Group, 2004–2006

a) Leadership and involvement by top management

Involvement by AREVA's top management grew through the leadership of Anne Lauvergeon, Chairman of the Executive Board, and through the role played by the Executive Committee.

In view of the magnitude of the disease's impact on the working population in many countries, the company affirmed its commitment to the fight against HIV/AIDS in March 2004. AREVA became a

member of the Global Business Coalition on HIV/AIDS, Tuberculosis and Malaria (GBC), and Anne Lauvergeon became directly involved as a member of the GBC's Advisory Board. Membership in the GBC increased awareness within the Group of the need to join the fight against the disease and gave AREVA a better understanding of the challenges and of the actions to be taken.

In February 2005, it was decided to expand the programmes in the priority countries of China and South Africa. Given the global nature of the pandemic, the scope established for the Group's actions includes all of the countries in which it does business, not only those that are the hardest hit. The objective became to explain, raise awareness and manage the project as an international programme within the Group.

In December 2005, it was decided to accelerate deployment of the HIV/AIDS programme. A year later, on 24 November 2006, the Group's HIV/AIDS programme was endorsed. It sets forth the values, principles and commitments to action (see below).

In October 2006, Anne Lauvergeon, attended the European summit for the heads of businesses in the fight against AIDS organized by the GBC in Paris. On World AIDS Day, 1 December 2006, the public-private partnership was signed with the government of Niger and ESTHER.

b) AREVA internal structuring

The magnitude of activities to be carried out by the Group called attention to the need to structure and organize the response internally. A project manager with experience in this field was hired in May 2005. To strengthen its expertise in HIV/AIDS treatment at the Group level, AREVA entered into a partnership with the pharmaceutical laboratory MSD Interpharma in 2005, which provides advice and technical support to define and establish the HIV/AIDS response in Niger.

In January 2006, a Corporate AIDS Committee was formed that draws together several internal components:

- Sustainable Development and Continuous Improvement Department
- Human Resources Department
- business units
- the Group's medical advisor
- Communications Department

The committee's mission is to validate and deploy the Group's HIV/AIDS strategy.

Activities to raise employee awareness, a key factor for deployment of the HIV/AIDS strategy, continued throughout 2006 at several events:

- the Convention of AREVA Executives, which brings together the Group's top 300 managers;
- the European Works Council, which assembles its labour partners from European countries;
- specific communication programmes in Niger, China and France; and
- the Executive Committees of the Group's first-tier subsidiaries, beginning in 2007.

c) Designing the Group's HIV/AIDS policy corporate responsibility and commitment, a tool for building trust internally

To earn legitimacy, a second important milestone consisted of defining the scope and limits of the company's responsibilities. This was done in "The Group's HIV/AIDS Policy" adopted in November 2006.

The policy mentions the company's awareness of the disease's consequences:

The AREVA Group is aware of the scale of the human, social and economic consequences of the HIV/AIDS pandemic...

The Group recognizes that through these numerous consequences, the HIV/AIDS pandemic affects different human rights as recognized by either international or national law. It makes a point of connecting the policy to the Group's concern for human rights:

...The Group is also mindful of health preservation, a key component of human rights...

The human rights affected in the

context of health preservation include the right to life, the right to health, and the right to access to medicine.

Because the Group is particularly aware of the care that must be taken concerning principles of confidentiality and non-discrimination, the policy articulates these principles:

...In accordance with our values, the Group supports HIV/AIDS programmes that respect human rights and help prevent any form of exclusion....

In this context, the relevant human rights involved are, amongst others, the right to non-discrimination or equality and the right to privacy.

The Policy also emphasizes prevention, education and, within its sphere of influence, access to treatment in the most affected countries by endeavoring to develop partnerships with local players. Its reaffirmation of the principle of integration with national health programmes makes a strong statement concerning the need for both quality treatment and coordination of action.

This places the company in a broader context that includes not only its employees, but, depending on local circumstances, their families and the population of the region in which the company operates. Because unilateral public health care by corporations carries risk in terms of sustainability, the Group's HIV/AIDS Policy encourages the company to turn to new and local partners to jointly own the approach and to fight the disease effectively over the long term.⁷

B. Corporate goal: Creating a public-private partnership

1. A Global Fund initiative

With encouragement from the Global Fund to Fight AIDS, Tuberculosis and Malaria, and spurred on by the chairman of the Executive Board, the Group opened discussions with the government of Niger and with ESTHER in late 2004.

The Global Fund played a key facilitating role by supporting the project at

the *Comité Intersectoriel de Lutte Contre le SIDA* (CISLS, or Joint Committee to Fight AIDS), the primary recipient of AIDS funding in Niger.

2. The public-private partnership project

After considerable consensus building efforts in accordance with the National Nigerien Policy on the Fight against AIDS, a public-private partnership agreement was signed by the government of Niger, Esther and AREVA.

The Nigerien government is the party in charge of the programme for prevention and care for people living with HIV/AIDS in the Agadez region, while the public interest group ESTHER and AREVA provide support, as outlined below:

Nigerien Ministry of Health and Disease Control:

- screening and case management for HIV positive people for whom the public health establishments of Agadez and Arlit are responsible, with resources including:
- supply of antiretroviral drugs and treatment for HIV positive people
- transfer of biological samples from Arlit to the Niamey Laboratory (1,200 km/746 miles) for measurement of the viral load

AREVA:

- screening and treatment for HIV-positive people for whom the mine hospitals are responsible (employees and dependents), with resources including:
- STD/AIDS prevention activities in the Arlit and Akokan communities
- specialized biological examinations, such as lymphocyte counting for persons referred to AREVA by the Arlit health facilities
- transfer of biological samples from Arlit to the Niamey Labo-

ratory (1,200 km/746 miles) for measurement of the viral load

ESTHER:

- capacity building for the analytical laboratory at the Agadez hospital
- training for analytical laboratory personnel and ARV drug prescribers
- mentoring of ARV drug-prescribing physicians
- organization of patient care and monitoring of people living with HIV/AIDS
- support to associations working for continuity of treatment

This initiative is considered one of the first substantial “co-investment” partnerships between a corporation, a government and a major funding organization, the Global Fund. For AREVA, this is the first programme to merge prevention, screening and access to treatment on such a large scale. The signing of the agreement is a decisive milestone in the fight against HIV/AIDS in the Agadez region.

Although this is only the first phase of the programme, the consensus-building process has demonstrated the feasibility of participatory approaches based on a consensus of multiple partners. To foster the emergence of as many of these types of initiatives as possible, the challenges that the partners had to face in this process are described here.

C. Challenges, lessons learned and unresolved issues

The process for setting up a public-private partnership, from the initial contacts between the different partners to the final signing of the agreement, raised challenges. This document presents the challenges, sets out some of the “lessons learned” and discusses the unresolved issues facing the company and its partners.

1. The challenge of preconceived notions

a) From bias between organizations...

Two important observations concerning these partnerships are that:

- the different partners are biased, sometimes negatively
- building trust is a prerequisite, but takes considerable time, which is sometimes viewed as “lost time” and a sign of inefficiency by the partners themselves

These challenges of cooperation cannot just be attributed to cultural differences between countries, but are also due to the inherent nature of the different parties: Public or private, each one bears the stamp of its organizational logic, history and historical relationships, and mode of operation.

It is important to point out that these doubts:

- can be real obstacles to sealing partnerships
- can resurface when there is tension, despite every effort
- are sometimes deep-seated, but are rarely shared by everyone in the entities involved; this then opens the door to dialogue, with discussion among the different players often leading to agreement by the various internal levels: the external partner becomes a key factor for moving internal players forward
- can be effectively set aside once the various “field operators” of the project (people in regular contact with each other) have built up enough trust, making it easier to surmount internal reticence that continues to be expressed by each partner

Lessons learned

- i) The project planning and design phase does consume a lot of time. This is because more is involved than defining the scope of a program; trust is being built between partners who are often far apart culturally, and this is

vital to the success of a joint project. Given that co-investment projects are still a relatively new phenomenon especially in the area of international health and, because of their complexity and the differing and sometimes conflicting agendas of the different partners, it is very important to manage the expectations of partners (and potential partners) of the time it takes to build the necessary trust and to encourage them to see this time period as a necessary investment.

- ii) The creation of a project with multiple partners cannot hope, at the outset, to achieve a consensus from every individual in each of the organizations. As an example, criticism by NGOs in early 2005 of the health effects of AREVA’s operations in Niger slowed down the discussions and the process of trust-building among the partners. The creation of a “core” group of people from each partner is a necessary starting point to achieve the necessary critical mass in these organizations as a second step.
- iii) Trust is not forever: Care must be taken at all times to fight against the natural inclination to blame other partners for delays and difficulties encountered along the way. Biases can resurface at any time and partners can feel manipulated or mistreated. Holding regular progress meetings is time-consuming but necessary to erase misunderstandings that can weaken partnerships. The long and gradual consensus building approach has sometimes been seen as a luxury detrimental to the effective progress of the project.
- iv) Without any doubt, the commitment of AREVA’s representatives and of its subsidiaries in Niamey and Arlit was a decisive factor in the process of discussion,

consensus building and dialogue with the Nigerien government. With their involvement, solid foundations were laid based on principles of integration with the national health programme, strengthening of local players and long-term action.

- v) The “multicultural” background of the contact persons from each of the organizations (varied professional experience: administration, private sectors, NGO, funding organization, and so forth) is a key factor for understanding. It contributes to better intermediation and management of pressures between the organizations. The project manager recruited by AREVA in May 2005 and the ESTHER manager for Niger both had significant management experience in large international NGOs. Some of the Global Fund contact persons also had prior experience in the private or governmental sectors.
- vi) Commitment by the parties is a decisive factor in the process of discussion, consensus building and dialogue.
- vii) The Global Fund, whose financial support is essential to this project, played a key role in moving the process forward. The involvement of its representatives in facilitating relations among partners (Nigerien government, AREVA Group) was decisive in the discussion and project design process. Similarly, despite its inherent constraints, the Global Fund proved flexible in budget planning, allowing its partners’ needs to be taken into account on several occasions.

b) ...to bias within organizations

Even after the project managers for the different partners were convinced of the merit of the “multiple partners” approach, there was still a lot of convincing to do internally. The biases within or-

ganizations are a major challenge due to the number of people involved, most of whom are not accustomed to cooperation on such cross-cutting subjects.

Getting the operations level on board (Nigerien subsidiaries Cominak and Somair) is a long-term effort, in spite of the awareness-raising initiatives undertaken. The legitimacy of the approach by AREVA's corporate headquarters, which seeks to offer another perspective, should be combined with legitimate risk management practiced by the line managers. This is all the more true in that maintaining the status quo (keeping the partnership with the outpatient treatment center in Niamey) might seem to be a solution with fewer uncertainties over the short term. Moreover, strong pressures for increased production at the operations level—Niger is one of several key countries for the Group—are sometimes hard to reconcile with objectives seen as being far removed from the priorities of mining operations.

The private mine hospitals funded entirely by the Group's subsidiaries also find themselves in a paradoxical situation, which does not facilitate their integration into the project. Even though the burden borne by these units is growing with the local population, the hospitals' medical personnel have access to significant resources. This project, which also seeks to strengthen local capabilities, has created an "alert mode" attitude among the mine hospitals' medical personnel, who fear that the transfer of skills to public organizations might not be lasting. In relation to the Sysmin project mentioned earlier, it should be noted that, except for employee dependents, the local population itself has expressed similar doubts about the future, not only in terms of the quality of health care, but also in terms of funding: Unlike the public system, which operates on cost-recovery mechanisms, health care is free in the mine hospitals.

Despite the demographic pressures on the mine hospitals, there

is internal debate within the AREVA Group between the option of bolstering the mine hospital's resources and greater development of the capabilities of the local public health system. The progress made on this project was made possible, as discussed above, by strong leadership at the highest level, subsidiary expertise, the structuring of the project organization, raising employee awareness and seeking external expertise (MSD laboratory) for credibility.

Lessons learned

- i) Strong involvement by top management is crucial and a prerequisite for the continuity of the process internally, on a subject that the various levels of the corporation have a hard time considering as part of their responsibility.
- ii) Bringing in outside expertise lends strong legitimacy to the project, which does not fall within the company's traditional area of expertise.
- iii) Commitment at the operational level is decisive for the success of the partnership process.

2. Slowness: The necessary evil of partnership?

The process of consensus-building during these past two years has been a slow one, especially for private groups for which efficiency is paramount. There are at least two reasons for the slow movement:

1. the official one: the creation of a project built together by all partners with defined roles and responsibilities for all;
2. the unofficial one: the gradual construction of real dialogue that respects the nature of the other partners, as different as they may be.

It took two full years, from late 2004 to December 2006, for the public-private partnership agreement to be signed after the first contact between the Global Fund and AREVA. The slow progress in

setting up the process was sometimes denounced by the players themselves.

Hurdles to project acceptance: AREVA
The slow process of winning acceptance inside AREVA for the need to work cooperatively with the key partners—the Nigerien government, Esther, the Global Fund, and others—slowed the consensus-building process further. More exposed to operating realities, the Group's subsidiaries in Niger are still in a phase of "gradual involvement." Kicking off the project and emphasizing participation, particularly via the Steering Committee, should help overcome the difficulties inherent in any project involving multiple partners.

Administrative hurdles: ESTHER
Several of the features of the ESTHER public interest group make it a unique tool for improving health care in developing nations, while others can cause delays: public funding, dependency on the French Ministry of Health, prior political agreements, and coordination of private North/South organizations, among others. These hurdles are often not fully understood by the other partners, yet they constitute an in-depth approach to development involving all players, by putting long-term results before short-term superficial effectiveness.

Organizational hurdles: Government
The noticeably improved coordination among the various Nigerien government players—the joint coordination for the fight against AIDS (CISLS) and the Ministry of Health—for the establishment of a national programme to fight AIDS is a key factor in moving the consensus building process forward. However, in the past, the distribution of responsibilities between the main recipient of international aid (CISLS) and the prime contractor (Ministry of Health) also contributed to slowing down the implementation process.
Slowness: A blessing or a curse?
With its engineering expertise, it would have been tempting for AREVA

to take over management of the project by itself in the interest of efficiency. This would not have been very different from the health programmes previously deployed by the Group. As mentioned above, the health care services wholly financed by the companies and initially offered to employees and their dependents by the mine hospitals (excepting HIV/AIDS patient care) are now provided to the surrounding community. More than half of the mine hospitals' budgets are for the secondary public (i.e., non-employee or dependent).

It is important to note that the approach selected by the project typifies the "180-degree change in perspective" that the Group has accomplished: changing from a "binary" approach (AREVA towards the community) aimed primarily at the quality of a service (health, education, basic services, etc.) to a "development" approach that adds the need to transfer skills to local partners.

The new approach can meet with strong resistance, starting with the surrounding community, whose status changes from that of a "passive" beneficiary to that of a partner fully involved in the chosen action plan. This is an undeniable obstacle that should not be ignored in the future.

Lessons learned

Ever since mining operations began at Arlit in the 1970s, the "monolithic" approach of "providing basic services" has produced good results in terms of quality health care. The health care services offered by the mine hospitals reach a very high quality. However, the system has reached its limits, and a transition from the "guardian angel" company to "corporate leverage" must be made. Little by little, the Group must go from being a leader in these fields to concentrating on its role as a facilitator. Strengthening local capacities and developing local partners' autonomy are the new conditions for bolstering a private sector player's "social license to operate."

At this very preliminary stage of the project, a somewhat concealed but very

real result has already been achieved: stronger ties between the different partners. Niger succeeded in demonstrating what few countries have been able to do: a calculated gamble that partnership, though difficult and uncertain, is necessary to achieving lasting results. The foundations for start-up, although shaky, have been laid.

3. The PPP experience in Niger: A base for AREVA's global AIDS strategy?

In relation to other groups, AREVA's business locations give it relatively low exposure to the AIDS pandemic. It has few operations in Africa; Niger represents about two-thirds of its employees on the African continent. The Nigerien experience, one of the most complex health situations that the Group has had to manage, is contributing depth to its policy and to its geographic deployment. The Group's endorsement of its HIV/AIDS policy in late 2006 and the start-up of a prevention programme in China are, as mentioned above, decisive milestones made possible by the experience acquired in Niger.

The "Nigerien lessons" have made it even more imperative to include as a programme objective not only the design of quality services, but also the method used, which necessarily means working in partnership and strengthening local capabilities. Understanding these mechanisms is part of corporate responsibility.

More generally, the Nigerien experience feeds into the Group's overall consideration of the scope and limits of its contribution to development in countries in which it does business. We hope that it will also help the Nigerien government and ESTHER consider new forms of partnership to fight AIDS more effectively. The challenge is also to demonstrate how the pooling of skills, expertise and experience from multiple sources can boost the impact for the affected communities.

Although its businesses vary substantially from one country to the next, the Group gained considerable experience in Niger that feeds into its overall thinking, not only on its response to

HIV/AIDS, but also on the changes that need to be made to its "community involvement" programmes.

In closing, it is worth noting that setting up this partnership was a learning experience for AREVA as well and helped the Group's employees understand the nature of the connection between "business as usual" and the new concept of corporate responsibility.

Endnotes

- 1 Since the partnership that is the subject of this case study was entered into only recently, this case study does not aim to measure the impact of the partnership's HIV/AIDS programme. Rather, the case study has the narrower objective of describing and assessing the sometimes difficult and uncertain process that succeeded in bringing the partners together to help address this important human rights issue.
- 2 EITI seeks to strengthen good governance in countries with abundant natural resources by verifying and publishing detailed information on payments made by extractive industries to governments and on revenues collected by the governments.
- 3 BLIHR is an association of companies that promote human rights.
- 4 Source: UNAIDS, 2005.
- 5 For more information on GBC, see <http://www.businessfightsaids.org>.
- 6 The Sysmin project is funded through the European Development Fund. One of its components is aimed at improving access to primary health care for the Arlit district population through the strengthening of the public health system.
- 7 It is important to note that this public-private partnership was not triggered by pressure from NGOs or community-based organizations.

The impact of a leader with vision and commitment to community: Contributing to societal change in South Africa from the 1970s to today— A case study of Barloworld

Kimon Phitidis*

Human rights issues addressed

- Diversity and/or non-discrimination in employment
- Working conditions
- Freedom of association and collective bargaining
- Right to education
- Social investment and community development
- HIV/AIDS

Human rights management practices discussed

- Getting started
- Strategy
- Policy
- Processes and procedures

Human rights, standards, tools and initiatives mentioned (beyond the UN Global Compact)

- The Universal Declaration of Human Rights
- Global Responsible Leadership Initiative
- Global Reporting Initiative

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1980s: Creating order out of chaos

1990s: The road to democracy

*2000s: Corporate Social Investment
and South African challenges*

Engaging in the global debate

Conclusions

Abstract

The aim of this case study is to share the story of Barloworld's approach to, and

involvement in, supporting and respecting human rights and endeavouring to avoid complicity in human rights abuse while operating in an environment where the repression of human rights was the official policy of the government of the day.

It is the story of one company's bid to operate in accordance with internationally recognized human rights principles in a country where the human rights of the majority of citizens were systematically violated. The case study focuses on efforts undertaken in Barloworld's workplace and on some of the social initiatives undertaken by the company to contribute to the wellbeing of the communities within the vicinity of its operations. The study also discusses the strategic underpinnings of the company's social investment programme and situates it within the company's overall approach to corporate citizenship. As such, it is relevant to efforts to implement Global Compact Principles 1, 2 and 3. This case study demonstrates how even where human rights are deliberately flouted, change can be made

* Kimon Phitidis is the Managing Director of Social Innovations, an agency that bridges partnerships between the corporate and not-for-profit sectors. Peer review of this case study was provided by Dr. Derick de Jongh, The UNISA Centre for Corporate Citizenship. The case study was researched and written with the financial support of Barloworld. The complete version of this case study, including annexes, is available on the UN Global Compact website: <http://www.unglobalcompact.org>. The case study is based on a series of interviews with people who either worked for or had dealings with Barloworld since the 1970s or are working at Barloworld today. It is based largely on their recollections and anecdotes, and has been supplemented by further research. South Africa's history, and Barloworld's involvement in it, is enormously complex and this is not an attempt to create an all-inclusive view of the past. Instead, it is an attempt to demonstrate that societal change can be made by corporations acting to improve the communities in which they operate for the good of the community and the sustainability of the company itself. While the name of the company changed several times during the period under review, for the sake of simplicity, it has been referred to throughout by its current name, Barloworld. The exception is when the name has been included in direct quotes.

by corporations for the betterment of the people within their sphere of influence. The study also highlights the fundamental importance of a visionary leader in embedding human rights into business practice and ingraining a culture of ethical behaviour and social investment in communities where the company operates.

Company profile

Barloworld was founded in 1902 in Durban, South Africa. Today, it is an industrial brand management company that includes the sale of products and services, rental and fleet service options. It offers its customers business solutions backed by leading industrial brands, supported by service, relationships and attention to detail. Barloworld brands include PPC SureBuild (cement), Plascon, Taubmans, Bristol and White Knight (coatings), Melles Griot (photonics), Sterilin (disposable plastics) and Carbolite (laboratory products). Other principal brands include Caterpillar, NACCO (Hyster lift trucks), and many of the world's leading motor vehicles. The company currently has operations in 31 countries and trades in over 100 countries.

1970s: The union movement

The embedding of human rights into Barloworld's corporate practices was sparked by events in Apartheid South Africa in the 1970s. The Soweto riots were one instigator. News of the Soweto riots spread rapidly and appeared on televisions all over the world. As the news spread, South Africa's already fragile economy reeled from the blow.

The business climate in South Africa quickly took a turn for the worse. Gold shares dropped by an average of 75 cents on the London Stock Exchange. Companies listed on the Johannesburg Stock Exchange suffered similar losses. The South African business community realized that if the Soweto incident followed in the footsteps of the Sharpeville unrest in 1960, the overseas borrowing that South Africa depended on would become more difficult to secure and the economy would suffer a downturn. As it was, South

Africa faced a deepening international isolation and further calls for sanctions.

The Soweto riots also highlighted the fragility of South Africa's social fabric. Racist laws, and the oppressive regime that maintained the laws in order to preserve white power in South Africa, rode heavily over basic human rights. Any opposition to the regime was deemed illegal and was dealt with firmly and swiftly. However, as stated by Andre Lamprecht, Executive Director of Barloworld and CEO of Barloworld Coatings, "...if political opposition is illegal, it resurfaces in different ways. In South Africa, it reappeared as the union movement."

The union movement began with a wave of black strikes and "stayaways" as workers resisted oppressive labour laws and low wages at a time of spiraling inflation in South Africa. The Labour Relations Act of 1924 specifically excluded black workers from its definition of "employee." Black workers, therefore, could not legally negotiate or strike, as only white unions were formally recognized. In 1979, however, with the recommendations of the Wiehahn Commission, a government commission of enquiry into labour relations, the labour laws were extended to include black workers. Black trade unions were also legally sanctioned and could be formally registered.

Unfortunately, the level of distrust of the government that had built up before the new laws were enacted meant that many black trade unions did not take advantage of the new laws. "[By] this time, the system had such a bad name, and there was enormous distrust," says Andre Lamprecht. "State instruments were used for oppression, not for participation, and very few black unions responded. Initially, in 1979, those unions that did respond were seen to be co-opted by white capital, and were branded 'Uncle Tom' unions."

By the late 1970s, South Africa was in a state of crisis socially, politically and economically. It was a challenging environment for business. Barloworld recognized that order, stability and a level of certainty were needed in order to survive. The company responded in a number of

ways. First, it addressed the labour issue, a vital component of any functioning business enterprise. Through consultations with workers, Barloworld set out to create institutions and systems to ease the plight of the workers in the company's sphere of influence.

In 1978, Barloworld drafted and instituted an internal policy called "The Barlow Rand Group Code of Employment Practice" (Code of Practice). The Code of Practice was a human rights-based code that gave all of Barloworld's employees, irrespective of ethnic origin, an equal right to representation and access to opportunity. This was highly unusual in South Africa at that time. The Code of Practice was carefully drafted to adhere to South African law, while at the same time extending the human rights of Barloworld's employees as much as possible. A selection of extracts from the Code of Practice demonstrates the complexity in drafting such a policy in an environment of rigorously imposed repressive laws supported by most of the dominant population. However, importantly, the Code of Practice illustrates that a company can draft and implement corporate policies that support human rights in the face of oppressive laws and attitudes:

- **Selection and promotion:** "Within the limits prescribed by law and by legally enforceable agreements, people will be appointed or promoted solely on the basis of their ability to meet the requirements of the post to be filled, unless group planning considerations dictate otherwise. Group policy will be to promote from within the group, and not necessarily from within the company where the vacancy has arisen."
- **Remuneration:** "Employees will be remunerated on a non-discriminatory basis, and performance, the demands of the job and experience will be the main criteria for determining salaries and wages."
- **Negotiating rights:** "It is certain that there will be changes in negotiating rights. Pending these changes companies of the group

will be prepared to consult and negotiate with unregistered unions provided such unions are so constituted that they would satisfy the Industrial Conciliation Act's requirements for union registration, can demonstrate that the majority of the employees concerned wish to be represented by them, and accept that companies must continue to abide by the laws and agreements to which they are subject."

- **Integration of facilities:** "Work areas will be fully integrated. The group's policy is to move positively towards the integration of other facilities, but it recognizes that legal constraints and social attitudes will influence the rate of change."
- **Conclusion:** "Changes in laws and regulations governing employment of all race groups in South Africa and in society's attitudes towards employment practices are occurring at a rapid pace and are likely to accelerate in the future. The group will examine on an on-going basis the laws and attitudes that affect employment practice, and will review the Code constantly so that it represents the most enlightened practice attainable in the circumstances prevailing at any time."

The Code of Practice embedded the right to non-discrimination, the right to form and join trade unions, the right to equal work for equal pay and the right to freely participate in the life of the company while assuring that the Code of Practice would be constantly reviewed in light of changing laws and social attitudes. In addition, the Code of Practice addressed the training needs of Barloworld's employees. This mandate was in line with the recommendation of the Wiehahn Commission that apprenticeships should be open to all races, a point that was vigorously opposed by white

labour in the 1970s. In his annual statement for 1979, Barloworld Chairman Mike Rosholt stated: "Our own...plans reflect the South African situation in microcosm: The...key to the achievement of our plans lies in our ability to recruit, train and retain substantial numbers of artisans, technicians and engineers. We see no prospect of doing so unless we draw on all the manpower resources available to us."

The Code of Practice also opened the door to black trade unions at Barloworld. Not all black unions became registered at this time, but most were becoming organized. "It was a big step to become a union," says Mike Rosholt. "They became organized and developed their own structures. We took a policy of talking to them, and it was only much later that this became a legal requirement. We saw unions as inevitable and were the first of the big companies in South Africa to negotiate with them. Developing recognition agreements with the unions was the first step in this change."

Andre Lamprecht adds: "This was the beginning of the development of the collective bargaining system in South Africa. At this time, about 50% of the South African recognition agreements were signed by us. Many other companies resisted, but it was soon instituted as precedent within Barloworld. This system recognized that decision making was shared in the business, and while it was based primarily on traditional labour issues, such as wages and conditions of employment, it allowed in theory for discussions on a much broader level, such as the end-price of products and the appropriateness of certain markets. The labour negotiation mechanisms that were developed are ultimately reflective of what a democracy is about in using negotiation and accommodation as opposed to force and were the groundwork towards the future character of the South African democracy."

Halton Cheadle, now Professor of Labour Law at the University of Cape Town, was the legal advisor to the black trade unions at the time: "Recognition

of unions was very significant. For the first time it allowed black workers to represent themselves and to partake in collective bargaining. It provided rights and formal procedures for African workers for the first time." With respect to Barloworld, Cheadle stated: "Barlow's was one of the first big companies to recognize trade unions. I think there was opposition on a local company level, but the vision of head office was certainly to go this route. Recognition agreements started first between a single workplace and a single union, and it was only in the mid 1980s that bargaining councils at industry level were formed. The development of these early industry agreements provided the greenhouse for democratic practice in an undemocratic state."

When asked why, in his opinion, Barloworld chose to actively support trade unions, Cheadle speculates: "There was certainly a social democrat philosophy coming out of the head office. I think there was a realization that Apartheid was not good for business, and they started to do something about it."

The CS Barlow Foundation

It was also during the 1970s that the CS Barlow Foundation was set up by Punch Barlow to help address the growing social concerns of the company. Reading the statements of Barloworld's chairmen through the 1970s and 1980s and up to today demonstrates the extent to which their concerns in South Africa have evolved over the years.

The current chairman of Barloworld, Warren Clewlow, focuses his statements squarely on the operations of the business. During the tumultuous 1970s and 1980s, Barloworld's chairmen focused on the political and social environment of the day—the issues that hindered business and the growth of the South African economy.

Barloworld set out to improve the conditions of the communities where it operated. It aimed to support urban housing, education and skills and entrepreneurial development, as well as assist in job creation through projects

sponsored by the CS Barlow Foundation. It is through the Foundation, its social leadership and consistency in focus on human rights issues and social investment, that ethics and human rights came to be embedded in Barloworld's interaction with its stakeholders.

1980s: Creating order out of chaos

If the 1970s were about building the foundations for collective bargaining and social institutions, the 1980s were about formalising these new institutions. This was an important step in a process that would help to reshape South African society. Barloworld, in accordance with its social investment philosophy, participated in the design and operation of many of these institutions. For instance, Barloworld contributed to the transformation of the National Manpower Commission. The South African National Manpower Commission was a non-representative body with members who were appointed by the Minister of Manpower and who were mandated to offer advice to the Minister. The business community, including Barloworld, led the process of changing this body to include representatives of business and labour, each of whom represented a constituency. "Prior to this [initiative] we had been creating civil society alternatives for participation, but this was the first step in changing the structure of the status quo by changing a component of the status quo itself into a representative body," explains Andre Lamprecht.

The 1980s also saw Barloworld and the business community co-operating with various other social parties to set up housing, education and economic forums. These were all tri-partite forums that involved business, labour and government. The Middelburg Forum is one example.

The Middelburg Forum

In 1980, Middelburg Steel & Alloys (MS&A), a subsidiary of Barloworld, launched an internal programme called "MS&A 2000: Shaping the Future Now" (MS&A 2000). MS&A 2000 was based on a head office initiative, "Project Better Future," and on the Code of Practice discussed previously.

The MS&A 2000 programme transformed the nature of the company, and later, the conservative town of Middelburg. MS&A 2000 encouraged management and staff to look twenty years into the future and was based on a set of beliefs that were unusual in South Africa at that time:

We respect the individual and provide a safe working environment.

We act with integrity in all our undertakings.

We produce quality products and provide a quality customer service.

We foster and encourage ability and ambition in all our people.

We provide equal opportunity and employment security.

At the height of Apartheid in South Africa, the MS&A 2000 programme was necessarily heavily enforced and policed by management. Racism in the workplace was prohibited, in accordance with the Universal Declaration of Human Rights. Employees who didn't toe the line were disciplined or fired. Enforcing and living this code within Barloworld led to a great transformation in the company that included new houses for black staff, use of the same toilets and facilities for all employees, which was against the law at the time, improved skills and adult literacy, as well as greater opportunity for black staff.

John Gomersall, then Managing Director of the Alloys Division of MS&A, and currently an Executive Director of Barloworld and CEO of cement subsidiary PPC, comments: "But our staff, black and white, were living a schizophrenic existence. They were living in an enlightened environment at work, but many of them returned to the old South African paradigm when they went home. We could manage what was happening on the shop-floor, but achieving the goals of MS&A 2000 required transformation of the political arena. We were the biggest employer in town, and aimed to spread our philosophy in Middelburg."

Accordingly, years after the introduction of the MS&A 2000 values to the company, Gomersall took this same set of principles on a roadshow through the town

of Middelburg. What was his message?: "If harmony, success and incredible growth are possible within an equal opportunity company such as Middelburg Steel & Alloys, why can't it be extended to the town, region and country as a whole? We need bold action for the future, not a *laager* mentality,"¹ he said at a town hall meeting on the effects of sanctions. "While I was booed off the stage by some, I was applauded by others," Gomersall recalls.

It was at this time that the management of black African affairs was transferred from the national government to local civic associations. South African townships became violent and unmanageable in response. Government service vehicles and buildings were burned, and many people were killed in the violence. As part of a protest in Mhluzi, a township near Middelburg, black workers decided to stay away from work and were termed "stayaways." In many cases, buses that came to take people to work were burned, and those seeking to go back to work were beaten and, on many occasions, killed. This type of protest eventually culminated in a two-day national stayaway on 16 June 1987.

In regard to the Mhluzi incident, Gomersall recalls: "Throughout this mayhem, the MS&A people came to work and regularly assisted management in identifying different collection and drop-off points for their company bus transport. The company and its employees were largely unaffected up to this point as the Comrades [African National Congress (ANC) affiliated youth movement which was at the forefront of violent protest] realized how much the company had done to change the lives of its people and allowed them relatively free passage. But sadly, eventually the Comrades' attention turned to MS&A workers too. They demanded jobs for themselves at MS&A or they would stop our workers from coming to work as well."

Against this background of violence and racial tension, MS&A managers went to the township of Mhluzi to negotiate with the Comrades. These discussions were the impetus for more formal discussions with the Comrades, initiated by MS&A.

This was the first time talks of this kind had taken place in relation to this type of incident. Under the MS&A belief that “winning people make winning companies that make winning towns,” representatives from the ANC, schools, churches and other political organizations were invited to attend these talks. This was the birth of the Middelburg Peace Forum.

“The challenge was to take a downward spiral of negative energy, and transform it into a positive energy,” says John Gomersall. “The challenge to people was to make joint goals, and to work together to achieve those goals.” The Middelburg Peace Forum was structured into working sub-committees looking at specific needs such as education, housing, health and hygiene as well as job creation. In this respect, Gomersall stated: “Many people in Middelburg joined hands across the divide. Where there were no crèches and libraries in Mhluzi, business people donated the materials and skills while the community donated the labour. While the township was drowning in filth, people and trucks from the white community of Middelburg arrived one week-end to clean up garbage and to repair broken sanitation. Small black-owned businesses linked to MS&A were started and nurtured, and it was not long after this that the burnings and the necklacing [a form of execution] came to an end.”

Mark Drewell, who was the Communications Manager at MS&A during the Mhluzi peace talks, recounts an incident at one of the Middelburg Peace Forum meetings: “It was during a full meeting of councillors, church leaders, business leaders and Comrades from the township that we heard a knock on the door, and in walked Anglican Archbishop Desmond Tutu. We were obviously surprised, but he asked us to carry on while he sat at the back and listened. Later, he asked if he could say a few words. He started with a prayer and then said that if what was happening in Middelburg could be repeated throughout the country, then South Africa would have a great future ahead of it.”

1990s: The road to democracy

The Peace Accord

In February 1990, South African President FW de Klerk followed through with reformist promises by allowing previously exiled organizations—the African National Congress (ANC), the Pan-African Congress (PAC) and the South African Communist Party (SACP)—to regroup and releasing Nelson Mandela from jail. Negotiations regarding the future of South Africa then began in earnest between the South African government, the ANC and other parties. However, within weeks of the euphoria that followed these announcements, violence spilled into township streets.

It was at this time that John Hall, then Executive Director of Barloworld and chairman of MS&A and PPC, was asked to take over as head of the South African Chamber of Business (SACOB). He was on the advisory committee of South African President FW de Klerk and discussed with John Gomersall the potential of taking the learnings from the Middelburg Peace Forum to the nation. “South African society had to make a decision,” says Hall. “Within the power vacuum that was developing, there seemed to be two choices—a burned earth route, or a negotiated settlement.” This argument was made popular at the time by the Anglo-American scenario planner Clem Sunter, who spoke widely in the 1980s of South Africa choosing a high road of negotiation leading to political settlement, or a low road of confrontation leading to civil war and a wasteland.

In early 1991, President de Klerk called a National Peace Conference. It was boycotted by South African political parties and by the South African Council of Churches (SACC), making it ineffectual as a forum for discussions about peace. The basis of the boycott was that the conference was to be convened and hosted by the South African government. The boycotting parties suggested a compromise. They proposed a second conference to be held with independent convenors

and put forward the churches and big business as a recommendation.

As a result of discussions with President de Klerk, the second conference was convened at Barloworld’s company headquarters in Sandton, Barlow Park. Barloworld provided the venues, transport, logistics and support for the delegates. Sixty-nine delegates attended, representing unions, political parties, traditional leaders and anyone else who had a constituency. The meeting was chaired by John Hall, who represented the business community, and Archbishop Desmond Tutu, who represented the SACC. This conference was convened with people who had never sat at the same table before, in an atmosphere of great uncertainty about the future. “We had to learn how to talk to one another,” says Hall. “It was like walking on political eggshells.”

During this conference, the headings of what was later to become the Peace Accord were agreed upon, and delegates were broken into smaller sub-committees. John Hall was the chairman of the steering committee that was to draft the Peace Accord. The offices and facilities used for the conference were provided by Barloworld, and SACC provided the secretariat.

“What was fascinating for me was the atmosphere at Barlow Park after-hours during this drafting process,” says Hall. “You would find people from different parties and organisations walking around the gardens at 1 a.m. with drinks in hand getting to know each other. The players established important relationships of mutual respect.”

The National Peace Accord, South Africa’s first multi-party agreement, was signed in September 1991, binding all the signatories to the negotiated conditions. As with many of the social and political initiatives at the time, the processes leading to the National Peace Accord were time- and money-intensive.

John Hall speaks of Barloworld’s support, despite these drawbacks: “At Barlow’s we were always encouraged to get involved, as we were dealing with

issues that were of critical importance to the future of the country. This process took up a lot of my time, and then I still had my proper job to do. Throughout the process, the company provided transport, logistics, facilities and any other support that was needed. It must have cost millions.”

Roelf Meyer, former Cabinet Minister in the National Party government, admired the role of the business community, including Barloworld, in the peace process: “The business community played a very important role in the Peace Accord process along with the SACC. If it was not for this role, the violence in South Africa could not have been controlled. I think this contribution is often neglected when the story is told.”

South Africa’s first democratic elections: Final step to freedom

The *Sunday Times*, on 24 April 1994, introduced the South African democratic elections as follows:

“South Africa embarks this week on a second round of revolutionary change after completing a near-miraculous transition from Apartheid to democracy. The midweek election is recognized around the world as a momentous and triumphal event, the completion of an impossible journey against the odds. For South Africa, the election marks the end of 342 years of white hegemony; for Africa, it completes the liberation of a continent; for the world, it is the final repudiation of institutionalised European racism.”

Social structures and institutions that had been built over the previous 20 years, to which Barloworld had made significant contributions, provided the foundation for the structures that housed South Africa’s first democratic elections.

In the buildup to the elections, many negotiation and arbitration processes were hosted at Barlow Park. “Individuals in the corporate sector contributed a huge amount to a peaceful transition at this time,” says Jayendra Naidoo, co-ordinator of the ANC/SACP/COSATU negotiating team in the 1990s. “They took risks, and put themselves on the line, but without the

backing of their employers, they would not have been able to do this. Barlow’s and some of the other big companies contributed a lot of resources, and always reacted quickly to short-term requests.”

2000s: Corporate Social Investment and South African challenges

The political and social contexts in which Barloworld operates has changed dramatically since the 1980s and 1990s, but the essence of the company’s approach to social issues has remained the same.

Barloworld’s CEO statement in the 2005 annual report begins with an explanation of Value Based Management (VBM), the business philosophy of the company, which was adopted in 1999. VBM requires that value is created for all stakeholders. It is represented by a pyramid that depicts shareholders at the apex and customers, employees, principals and suppliers at each of the points of the base. The pyramid sits on a foundation of the social and physical environment in which the company operates. “VBM crystallizes the values-based, responsible management philosophy that has been in operation since Punch Barlow’s era,” says Jennifer Smith, Head of Corporate Social Investment at Barloworld.

In describing VBM, Andre Lamprecht, Executive Director of Barloworld and CEO of Barloworld Coatings, states: “The role of a business is to generate value in society. If it doesn’t do so, it can’t be sustained, and it goes under. While VBM was not a formal concept in the company in the 80s, it was still at the foundation of how we operated. It was at the employee end of the pyramid that we felt enormous pressure, as society’s issues were brought to bear through labour relations issues. While business schools focused on internal value drivers only, we realized that external value drivers—for the broader society—had to be equally considered.” Today, these external drivers are realized through reducing the environmental impact of the firm, Corporate Social Investment (CSI) and black economic empowerment (BEE).

While the company has grown internationally, the CSI programme is focused on South Africa. Consistent with the approach of the CS Barlow Foundation in the 1970s, there is still an emphasis on education, job creation and community infrastructure. However, Barloworld’s focus has also expanded over the years to include leadership development, combating HIV/AIDS, and supporting orphaned and vulnerable children, strengthening policing and the criminal justice system, and support of the arts, as well as public policy monitoring and advocacy.

“Within all of these areas, our approach is to help build institutions so that they can more effectively deliver on their social goals,” says Jennifer Smith. This sentiment echoes the company’s approach towards building social institutions in the 1980s and 1990s.

History of CSI

“When Chairman Punch Barlow set up the CS Barlow Foundation in the mid 1970s, it was established as a vehicle to build trade and technical high schools and colleges in or near black residential areas or the “homelands,” since training of skilled black people was illegal in so-called white areas in South Africa at the time. The work of the Foundation was implemented under a management committee chaired by Mike Rosholt, subsequent chairman of Barloworld from 1979 to 1991. The scope and budgets of the CS Barlow Foundation grew exponentially and in 1984, its name was changed to the Barlow Rand Foundation. In 1986, the Barlow Rand Education Trust was also established to accumulate capital for substantial projects,” explains Jennifer Smith.

Charles Lipp, a former director of the Barlow Rand Foundation, says that the CS Barlow Foundation was set up originally to fund the building of two technical high schools—the CS Barlow Technical Institute in Lebowa and the Buchule Technical High School at Mdantsane near East London. At that time, the company anticipated that technical skills would be in great demand in these regions of South Africa, as they were earmarked for large-scale

government infrastructural development projects. The Foundation's work programme expanded to include the extension of the Jabulani Technical High School in Soweto and the building of two laboratories at the St Anthony's Education and Training Centre in Boksburg. According to the 1979 annual report, "the four projects in aggregate absorbed some R2-million."

In the early 1980s, a fully fledged CSI programme began to evolve that required a dedicated department in the group's corporate office, and policy and multiple projects were overseen by a CSI sub-board committee. In an environment when the government of the day either would not or could not deliver basic services to its citizens of colour, the scope for private sector intervention to build capacity to do so within civil society was enormous.

"By 1994, the budget for our corporate programme was sitting at just over R14 million per annum and we were working on more than a thousand projects. And Barloworld operating companies spent about the same amount again on their own local or industry-related CSI activities," says Jennifer Smith.

"Early on, our focus was on skills development and education, particularly efforts aimed at universal literacy and numeracy, and improving the quality of tuition in mathematics and the sciences. Generating more employable artisans and graduates in the technical fields, such as engineering and accounting, aligned with the human resource development needs of the country, and with those of our own operations."

Another major emphasis of the programme was on promoting entrepreneurship and small black business as a basis for job creation. A small business hive called Enterprise Centre was established in Alexandra Township, near to Barloworld's corporate offices in Sandton, and initiatives such as Job Creation SA and the Small Business Development Corporation were established.

We knew that effective CSI was about facilitating collaboration,

improvement and change rather than mass delivery, so we looked for fresh thinking, enlightened attitudes and innovative new ideas. Efforts were made to entrench more effective ways of delivering skills and education, welfare and health services, support for small black business, and of combating environmental degradation and species loss. Ground-breaking work to effect local economic development and reconciliation also took place in the small, racially divided town of Stutterheim in the Eastern Cape, which generated a case study well worth examining.

The New Era Schools Trust (NEST) and the Leadership Education and Advancement Foundation (LEAF), were established to set up racially integrated schools for students with high academic potential. LEAF was championed by John Hall, former executive director of Barloworld and chairman of MS&A and PPC, in his personal capacity. In fact, almost all of Barloworld's executive directors were personally involved in the leadership of organizations focused on social upliftment and advancing change in South Africa, and the company became involved in many of these, contingent on their relevancy and impact. Scores of capital projects in the education and, to a lesser extent, low-cost housing and health sectors were embarked on to improve services and access for disadvantaged black communities, such as the building of Pace Commercial College in Soweto and the College of Education in Alexandra.

A Barloworld bursary programme, initiated before it was legal, enabled black learners who qualified academically to attend some of the top private schools and mainstream tertiary institutions in the country, as part of a leadership development continuum for a new South Africa, yet to be born.

The company also assisted high-performing schools to reach out to dysfunctional schools in their vicinity, effectively creating regional centres of educational excellence. Because intervention programmes in non-performing schools

were constrained by poor teaching and learning conditions, Barloworld partnered with the Learning Channel, which used TV and print media to deliver supplemental, curriculum-aligned lessons directly to learners to compensate in particular for the poor levels of science and maths tuition offered by government schools. At that stage, the company was also able to support all of the universities and "technikons" in the country, assisting in the establishment of development foundations, capital projects, bridging programmes and initiatives to build teaching capacity, particularly in technical fields of study. Barloworld's funding of workshops, a commerce library and its endowment of a Chair in Mechanical Engineering at the University of the Witwatersrand's Faculty of Engineering were examples of this approach.

Social co-operation in South Africa continues

The spirit of big business co-operating in South Africa to help transform South African society fostered in the 1980s was continued into the 1990s, and Barloworld was instrumental in co-founding a number of multi-sector partnerships to channel these efforts, the scale and purpose of the partnerships being what made them successful. In 1992, Barloworld was part of a consortium of 14 leading companies that contributed R560 million over five years to form the Joint Education Trust (JET), a partnership between the business sector and community organizations that aimed to transform the educational system in South Africa. This institution invested in early childhood development organizations; adult basic education and training organizations; programmes to uplift the skills of maths, science and English teachers, and programmes to improve the employability of young people. These funds helped sustain the bulk of education NGOs through the 1990s.

The National Business Initiative (NBI) is a coalition of 140 leading South African companies. The organization facilitates the role of its members in con-

tributing to economic growth, social development, ecological balance and democratic consolidation. “The NBI aims to be an effective and accountable organization involved in solutions to the many socio-economic problems facing the country,” says Mike Rosholt, the founding chairman of NBI who continues to hold the position today.

The NBI incubated two related organizations that now operate independently. Business Against Crime collaborates with relevant government departments and agencies on initiatives aimed at combating crime and violence in South African society. The Business Trust is a partnership that facilitates strategic dialogue and business and government working together on initiatives that benefit disadvantaged people and projects that stimulate employment, build capacity and enhance mutual trust. It is an infinitely replicable model of collaboration for Africa—and the rest of the developing world.

Social investment today

Barloworld commits one percent of global profits after tax to CSI activities, and in 2005 spent R21.1 million (2004: R14.2 million) on its social investment projects. From the corporate office, a programme with global sustainable development linkages focuses on southern Africa, where need is greatest. In order to maximize return, the approach is strategic and aimed at having a wide geographical reach. “We partner with between 15 and 20 credible NGOs that address relevant issues. Our partners are selected for their ability to explore new concepts to create value in society, innovations with the potential to contribute to effective public policy or strategy formulation, and which can potentially be taken to scale by the public sector. NGO partners are held accountable and report regularly against the achievement of their strategic objectives,” says Jennifer Smith.

In a second stream of CSI activity, Barloworld operating companies support local projects and initiatives that address issues related to their particular industries. Employee volunteerism helps to extend the companies’ reach into the heart of local communities.

Lamprecht adds: “In all of our projects we have brought to bear the facilitation and negotiation skills we have used through the many tri-partite structures we have supported in the past. For example, we have just built the Mandela Barloworld Agricultural High School and Clinic in Ga-Modjaji near Tzaneen in the Limpopo Province. This was only built once we had completed two years of discussions, planning and negotiations with traditional leaders, through the Rain Queen Modjaji, and with the local government representatives.”

Things have also moved on significantly from the days of the CS Barlow Foundation: “It is about more than writing out cheques,” says current Chairman Warren Clewlow. “We try to contribute money and people to boards and project committees to work together to help create institutions that will help realize a specific social goal. We recognize that the business community holds a lot of talent and expertise that could be used in broader social contexts, and we recognize the need to make this talent more broadly available.”

Clewlow adds, “The spirit of social investment has been passed down through the various chairmen. The intention has always been there, but the programme adapts over the years. It is important to be attuned to the social environment of the day. But the drivers now are quite different to when we started. In the early days of our social investment, politics was a major driver. This is no longer the case. Opportunity has opened up for more people, and our approach is about developing people and helping them realize their talents.”

What does the future hold?

“Why we are [investing in our community] hasn’t changed,” says Tony Phillips, current CEO of Barloworld, “but the public face has changed quite dramatically since the days of the CS Barlow Foundation. In the early days, social spend was based on a strong moral ethic within the company, and there was always a sense that we didn’t need to promote this. But today, in an environment of BEE [black economic empowerment] codes and scorecards, it

is much more important to put a face to social spend. The codes have also effected how we spend. While we have always supported enterprise development alongside our focus on education, there is now a much stronger focus on this, and we need to ensure that we are closely aligned with the rule book.”

Phillips also talks about how a dynamic South African social and political landscape has influenced the nature of the company’s social strategy. This has moved a long way from the chairmen’s statements of the 1970s and 1980s when the company was attempting to compensate a black working class that was denied political freedom, education, training and housing tenure.

“We no longer have Apartheid, but now we have to respond to the challenges of a population affected by HIV/AIDS. We also have a population that has achieved political emancipation, but what about economic emancipation?” says Tony Phillips. “In my view, the BEE codes place too much emphasis on equity, but what about the other areas? What about the 30% of South Africans who are unemployed? We may have had consistent economic growth since 1994, but the... [income gap between the rich and the poor] has increased. Why is this? This is the biggest challenge for government, and as a company, we will have to play a role towards helping people achieve this economic emancipation.”

Engaging in the global debate

Barloworld has actively engaged in the societal debates relevant to South Africa, and in doing so, has played a role in political and societal transition. This transition led to the opening up of international opportunities for the company, and almost 40% of its revenues now come from Europe, North America, Australia and Asia. The rationale for engagement has remained consistent. The company is engaged in its community now for the same reasons that it became actively engaged in the 1970s. The longevity of the business depends on the sustainability of the society in which it operates. While the bulk of CSI spending still accrues to South Africa, Barloworld

has contributed towards raising the profile of international sustainability issues and encouraging business leaders and governments to engage more fully in these debates.

Barloworld executive Mark Drewell explains: “We are operating in a world of massive population growth and unsustainable use of natural resources. But the good news is that businesses are amongst the most influential institutions worldwide and have a tremendous opportunity to shape a better world. And once the right signals are sent the market system has the capacity to mobilize massive resources to deal with any problem. At Barloworld, we are driving and supporting forums and mechanisms that will raise the awareness in the boardroom, and that will result in a shifting view of the purpose and role of business.”

Being accountable to a broader, international audience has also led to the company reporting in line with the guidelines of the Global Reporting Initiative (GRI). This encourages companies to report extensively on economic, environmental and social performance through the use of a sustainability reporting framework. “We started reporting against the GRI indicators 10 years ago,” says Mark Drewell. “This integrated style of reporting is a manifestation of our philosophy of Value Based Management which says that we need to play our part and be accountable to society.”

Conclusion

This case study spans four decades of the history of a company that started more than 100 years ago. The study focuses on the thread that has been woven by a social philosophy that in the early days of Barloworld was more intuitive than written. In the modern day, this philosophy has been codified in written policies and procedures that accord with South Africa’s new laws and codes of business practice. It is clear that Barloworld has invested significant resources towards influencing the course of South African history and improving human rights within its sphere of influence.

In the early days referred to in this case study, Barloworld was one of the largest and most diverse companies in South Africa and, as such, had considerable influence. Using this influence, it became one of the first companies in South Africa to support societal change initiatives, often moving against the corporate mainstream. Its actions were based on the belief that unless the country in which it operated developed towards a democratic state where basic human rights were respected, there would not be an environment in which to thrive. There would be no market, and there would be no skilled labour force to drive business growth. Today, the same line of thinking drives Barloworld to continue to pursue social goals that address the challenges of the present—such as HIV/AIDS, entrepreneurship, leadership development and environmental issues.

But there has also been an altruistic element to this approach. What comes through in the interviews is a consistent ethic of “doing the right thing” based on a set of ethical principals that have been passed down through the various chairmen of the company.

Barloworld’s societal initiatives have been driven by individuals within the company who feel passionate about the plight of the community in which they operate and who are driven by the potential results that can be achieved if the resources of the company are employed to achieve them. These are also individuals responsible to the company for their core function who would not have been able to make these contributions had Barloworld not allowed the space and climate for their contribution to flourish. As stated by one of the interviewees: “At Barlow’s, we were always encouraged to get involved, [because] we were dealing with issues that were of critical importance to the future of the country.”

Human rights and societal change go to the heart of the company. The story of Barloworld illustrates the importance of visionary leaders in business enterprises. The basis for the ethics of the company appears to be consistent over its history,

as presented here, and its leaders appear to have played, and continue to play, a vital role in embedding a social conscience into the fabric of the company.

Interviewees have spoken of the “DNA of the firm.” But how ingrained are the ethical strands of this DNA? It seems that the answer may lie, *inter alia*, in Barloworld’s succession planning policy, which seeks to ensure that leaders are broadly like-minded about issues such as human rights and social investment. Continuity in management, thanks to the long careers of many executives in the company, has also played a role. In addition, Barloworld actively promotes practices and models that articulate the ethics of the firm. At Barloworld, the Value Based Management model is integrated into the daily practices of the company. The company also encourages the ongoing trajectory of history. It does so by ensuring that staff and management are aware of the social history of the organization, thereby instilling a feeling of responsibility, as current custodians of Barloworld, to follow this philosophy during their own tenure at Barloworld.

Endnote

- 1 The *Oxford Dictionary of South African English on Historical Principles* defines laager mentality as “an attitude of isolationism and intransigence born of fear or anger.” The phrase is derived from the word “laager”, which is “a fortified encampment of wagons, lashed together in a circle.” P Silva *The Dictionary Unit for South African English and the editing of The Dictionary of South African English on historical principles*, 1991-1995 available at <http://www.und.ac.za/und/ling/archive/silv-01.html>.

Implementing a living wage globally: The Novartis approach

Juergen Brokatzky-Geiger, Raj Sapru, and Matthias Streib*

Human rights issues addressed

- Freedom of association/collective bargaining
- Living wage
- Sphere of influence

Human rights management practices discussed

- Getting started
- Strategy
- Policy
- Processes and procedures
- Measuring impact and auditing
- Reporting

Human rights, standards, tools and initiatives mentioned (beyond the UN Global Compact)

- Universal Declaration of Human Rights
- International Labour Organization (ILO) Conventions
- Organization for Economic Cooperation and Development Guidelines (OECD)

Corporate Citizenship implies many things that add up to responsible behavior of a company within society. In the end, doing the right thing also makes business sense.

— Daniel Vasella, Chairman and CEO of Novartis

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Abstract

This case study describes how Novartis became one of the first international companies to develop and imple-

ment a voluntary commitment to pay a living wage to all its employees around the world.

Initially, Novartis believed it could borrow existing models to implement the living wage commitment. When it became clear that no such universally accepted model was available, methodological challenges presented themselves. Numerous different conceptual approaches and methodologies have been proposed to calculate a living wage – taking into account geographically specific data on household expenditure for varying family sizes and places of residence. Using these calculations as a starting point, Novartis rolled out its living wage programme, working in close consultation

with local management in countries with divergent economic systems and standards of living. Novartis believes that the model developed by it could be applied by other companies to similarly ensure that employees are paid an adequate living wage.

Company profile

Novartis AG is a multinational pharmaceutical company that produces medicines to protect health, cure disease and improve well-being. Its goal is to discover, develop and successfully market innovative products to treat patients, ease suffering and enhance the quality of life. It is strengthening our medicine-based portfolio, which is focused on strategic growth platforms in innovation-driven pharmaceuticals, high-quality and low-cost generics, human vaccines and leading self-medication OTC brands. Headquartered in Basel, Switzerland, Novartis Group companies employ approximately 101,000 associates and operate in over 140 countries around the world.

* Juergen Brokatzky-Geiger and Matthias Streib are the Head of Human Resources at Novartis and Global Human Resources Project Leader respectively for Novartis. Raj Sapru is Manager, Advisory Services at Business for Social Responsibility (BSR). In lieu of peer review, this case study was written as a collaboration between Novartis and Business for Social Responsibility. BSR is a global organization that helps companies achieve success in ways that respect ethical values, people, communities and the environment. BSR provides advisory services, tools, training, and information to make corporate social responsibility an integral part of business operations and strategies. A non-profit organization, BSR promotes cross-sector collaboration and contributes to global efforts to advance the field of corporate social responsibility. The work that was the subject of this case was also presented during the Labour Session at the Global Compact Leaders Summit, held at the Palais des Nations in Geneva on 5–6 July 2007.

Introduction

Prevailing federal or state minimum wage levels are not always adequate to fulfill the basic needs of a worker, and his or her family. Novartis – as a key undertaking of its Corporate Citizenship policy – is determined to make sure that salaries paid to all employees worldwide are on the safe side of a living wage.

While the company's commitment to a living wage was never in question, methodological challenges raised by implementation were by no means easy. Numerous different conceptual approaches and methodologies have been proposed to calculate a living wage – taking into account geographically specific data on household expenditure (e.g., food, housing, health care, education, transportation, child care) for varying family sizes and places of residence.

In a preliminary analysis after the commitment by Novartis in the year 2000 to the United Nations Global Compact, the Novartis Foundation for Sustainable Development (NFSD) asked South Asian non-governmental organizations (NGOs) to define a “basic needs basket” for a worker and family, and to quantify the basket in local currencies. Those initial calculations showed that even the lowest salaries paid by Novartis exceeded the basic needs basket. A second analysis, however, prepared by an Indian Research Institute arrived at varying levels and multiple definitions of a living wage (e.g., poverty level, subsistence level-plus, and comfort level).

As so often in debates involving social issues, the vexing question “How much is enough?” remains a point of dispute in attempts to define, compute and implement a living wage. What are “normal” needs? What prices should be used as reference prices (small neighborhood stores, co-operative states, mobile vendors) in calculating the basic needs basket? How are culturally required customs (e.g., religious celebrations) to be dealt with? What amount or percentage of

the monthly salary should be allocated for savings – for investments (e.g., land) or the purchase of items beyond basic needs? What is the definition of a “luxury” item that should be excluded from a basic needs basket? Should calculations assume that family income is provided by a single, male earner while his spouse remains at home, looking after the children?

Along with such questions, other important issues must be considered. How should one weigh the benefits derived by individuals and developing nations from comparatively low wages that enable them to break into world markets and create industrial employment for millions of people outside of local handicraft industries or subsistence agriculture? How far – with the best of corporate intentions – can labour standards be stretched without creating a privileged labour aristocracy, while leaving the poor majority in a country no better off?

This case study describes how Novartis became one of the first international companies to develop and implement a voluntary commitment to pay a living wage to all its employees around the world. Initially, Novartis believed it could borrow existing models to implement the living wage commitment but it quickly became clear that no such universally accepted model was available. Novartis commissioned the non-profit business association Business for Social Responsibility (BSR) to establish a methodology to calculate living wage levels. Using those BSR calculations as a starting point, Novartis rolled out its living wage programme, working in close consultation with local management in countries with divergent economic systems and standards of living.

By early 2006, the company had aligned the pay of all 93,000 employees with living wage levels. Novartis and BSR continue to work on further improvements to the methodology as well as on periodic adjustments of the initial living wage calculations for key factors, such as inflation.

Novartis believes that paying a living wage locally is an important benchmark of its commitment to the UN Global Compact principles on labour standards – as well as evidence of the company's determination to be a good corporate neighbor in communities in which it operates. A key lesson learned in taking the living wage from idea to implementation is that active participation of local management in the decision-making process is critical to success. Local management bears the ultimate responsibility for acceptance of a living wage as a core principle of a company's operations and culture.

Fair working conditions

For Novartis, the living wage initiative is an essential dimension of the commitment to fair working conditions the company made as one of the earliest signatories of the UN Global Compact.

Accordingly, the Novartis Policy on Corporate Citizenship pledges “to base human resources policies and practices on fairness, openness and mutual respect. We pay competitive and fair wages, which clearly exceed what is needed to cover basic living needs.” Novartis wants “to be recognized as an innovative, ethical and trustworthy company, fostering a culture where employees are expected to behave ethically, not just lawfully.” To that end, in addition to compliance with laws that govern operations in more than 140 countries, Novartis encourages employees to uphold the ideals and values defined in its Code of Conduct and Corporate Citizenship Policy, as well as the related policies and guidelines, which sometimes extend beyond legal duties.

Corporate Citizenship at Novartis is based on three pillars:

The Policy on Corporate Citizenship was created following the commitment to principles of the UN Global Compact, and a subsequent internal review of how Novartis could fulfill the new responsibilities it had undertaken. The Global Compact asks companies to enact a set of core values in the areas

of human rights, labour standards and the environment – as well as in efforts to combat corruption. In the Policy on Corporate Citizenship, Novartis outlines its own contribution: “To do everything we can to operate in a manner that is sustainable – economically, socially and environmentally – in the best interest of long-term success for our enterprise.”

Management structure: The Audit and Compliance Committee of the Novartis Board of Directors is charged with oversight of Corporate Citizenship. The Group Executive Committee (ECN) is responsible for implementation through an established steering committee that has overall responsibility for Corporate Citizenship Policy and guidelines. Operating units within each division establish appropriate structures and allocate sufficient resources to reasonably meet the requirements of the Corporate Citizenship Policy.

A new Business Practices Office (BPO) was established in 2005 to facilitate reporting of internal misconduct. Employees are requested to report actual or suspected cases of misconduct to the BPO, which ensures that all complaints are properly investigated and enables management to take appropriate remedial actions.

Measurement of progress and impact includes public disclosure of progress on specific commitments, and overall performance in Corporate Citizenship, each year in the Novartis annual report to shareholders. The approach is based on continual improvement and public trust gained through transparency. Progress is measured – and compliance with Corporate Citizenship policy, guidelines and regulatory requirements is verified – through management reviews and target setting for key performance indicators, combined with internal and external audits.

In this yearly measurement of progress, Novartis also reports on its performance in addressing key challenges of Corporate Citizenship – including the living wage commitment – and establishes new targets for the coming year. Corpo-

rate Citizenship disclosure also includes a report to the UN Global Compact office, as well as regular employee surveys and communication with external stakeholders.

Cutting edge of labour relations

A living wage is distinct from minimum wages, the hourly amount defined by law that employers must pay workers. Minimum wages apply only to discrete geographies although an increasing number of developed nations have passed minimum wage laws over the past century. While most countries have minimum wage laws, their enforcement can often be a challenge in developing economies. A living wage reflects the cost of a certain basket of goods that is considered to provide an adequate standard of living and generally is higher than the minimum wage in many locations. Minimum wages often rise slowly over time and sometimes correspond to increases in the cost of goods. A minimum wage, for example, may be the result of a political process or a union negotiation, and not directly based either on what that wage will be able to purchase, or whether purchases included in a basic needs basket will provide for a family or ensure an adequate standard of living.

The concept of a living wage is referenced in a few international standards – most closely in the Universal Declaration of Human Rights (UDHR) Article 25.¹ Interest in a living wage has steadily gained prominence, fueled by the general expansion of economic globalization. Nonetheless, a generally accepted methodology for calculating a living wage doesn't yet exist.

For Novartis, the living wage initiative is an opportunity to contribute to the improvement of labour standards and to have a positive impact on the communities where the company operates. Such concerns have gained added urgency as Novartis and other leading pharmaceutical companies have stepped up activities in developing countries, where legal safeguards for workers usually are not as advanced as in industrialized countries.

No other companies are doing this locally. When talking to government officials, I can proudly say that we pay several times above the minimum wage and that we are not just a profit-making business.

– Novartis Manager
Pakistan

Advocates of a living wage contend that minimum wages do little to assure basic needs, while adoption of living wage standards can contribute to stability and prosperity in communities and attract more skilled, productive and loyal employees. In the United States, for example, a number of state and local governments have adopted living wage ordinances to ensure that local government employees and contractors are paid more than the legal minimum. In a few cases, these policy measures extend beyond government contracts and employees, and apply to all local businesses. Still, living wage initiatives remain on the cutting edge of labour relations.

From Global Compact to living wage

The living wage initiative implemented by Novartis emerged from one of five guidelines issued by the Group Executive Committee establishing the set of core values envisioned by the Global Compact and its principal architect, UN Secretary General Kofi Annan. Specifically, Corporate Citizenship Guideline 2 on Fair Working Conditions, approved by the ECN in 2002, defined group policy covering human resources aspects of employment. The commitment by Novartis went well beyond the Global Compact's basic call to uphold freedom of association and the rights of collective bargaining.

Tracing the ten principles of the Global Compact to their roots in the Universal Declaration of Human Rights, other related UN documents, ILO Conventions, OECD Guidelines and other international conventions, Novartis made a holistic assessment of the intersection of its business opportunities and the expectations of the international community of stakeholders. That assessment

included a detailed examination of stakeholder expectations of a global pharmaceutical company at a time of intense media focus on critical issues, ranging from access to medicines and marketing practices to transparency on clinical trials, product safety and the industry's lush profitability.

Acknowledging that successful international companies would likely be held increasingly accountable by critical stakeholders for the governance of society, Novartis debated if it was prepared to address these expectations. The company identified areas where it had made – and would continue to make – a positive contribution through the success of its business, and benefits that society derives from its products. Through that process, Novartis was also able to formulate answers to vexing questions such as how it could implement the commitment to the Global Compact, expand its role in society, and be recognized as a good corporate citizen.

Novartis recognized that the values of Corporate Citizenship had to begin with the success of its core business. Corporate Citizenship emanates from the benefits the company offers patients and healthcare professionals, associates, shareholders and neighbours through discovering, developing, manufacturing and marketing innovative medicines that addressed unmet medical needs. Through its uniquely broad, medicine-based portfolio, Novartis provides diverse models that enhance affordability, and thus access to treatment.

The Novartis Foundation for Sustainable Development was already active in the field of human rights under the leadership of Professor Klaus Leisinger, whose contributions would later be acknowledged through his appointment as a special advisor on the Global Compact to UN Secretary General Anan. The Novartis Foundation – being active in corporate philanthropy and working as a think tank on corporate responsibility issues of pharmaceutical companies – supported early work on

a living wage before ownership of the issue was transferred to the Group Human Resources function.

Novartis pressed ahead with the living wage initiative relatively quickly, relying on a small team of experts. With no blueprint available, however, implementation proved to be more challenging and time-consuming than expected.

While the Corporate Citizenship guideline on fair working conditions reflected language of the third principle of the Global Compact, which addresses collective bargaining and freedom of association, Novartis chose to base its living wage initiative within a broader framework of wage standards. The company pledged that in each market, full-time wages must be set at or above a level that covers the market price of a basket of goods and services representing the subsistence level for an average worker in the town or region in question.

Focus on greatest need

An array of factors contributed to the successful implementation of the living wage initiative. The reputation of the pharmaceutical industry is sometimes negatively affected by perceptions that the industry doesn't make social contributions commensurate with its size, global scope and financial success. In particular, pharmaceutical companies are often criticized for their failure to focus activities on areas of greatest patient need – for example, research into the “neglected” diseases such as HIV/AIDS, malaria and tuberculosis that take a daunting toll in the developing world.

Novartis, however, already had made major contributions to improving access to effective treatments against malaria, leprosy and tuberculosis – in addition to the not-for-profit research against neglected diseases conducted at the Novartis Institute for Tropical Diseases (NITD) in Singapore.

In a similar fashion, the living wage initiative targets employees earning the lowest wages. The initiative augments

weak or non-existent legislation to ensure fair wages in many countries where Novartis might consider launching operations and addressing a potential risk of globalization. Novartis also believes that the commitment to pay a living wage aligns values and behaviours of present and prospective employees with those fostered by the company. Novartis already was paying competitive wages above the living wage levels for the vast majority of employees, and the review by management determined that transforming actual practice to a formal commitment was financially feasible.

This most definitely has a positive impact on the workforce. Novartis is committed to the attraction, development and retention of top talent as demonstrated by our employee compensation and benefit programmes, training and development opportunities and our pursuit of innovative products. Supplementing the employee commitment with our Corporate Citizen activities makes Novartis an employer of choice.

– Novartis Human Resources Director
United States

Interestingly, access-to-medicine programmes at Novartis had pioneered principles that were borrowed to support the living wage initiative. The Glivec International Patient Assistance Programme (GIPAP) has provided access to Glivec, a breakthrough therapy against a common form of leukemia and other cancers, free of charge to more than 19,000 patients in 83 countries who otherwise would not have access to treatment for their life-threatening diseases. Although the GIPAP programme is administered on behalf of Novartis by third party – the Max Foundation and Axios International, a drug distribution organization – the financial criteria used to assess patients' eligibility for GIPAP are based on a cost of living per country, calculations later adopted in design of the living wage concept.

Methodology:

Difficult choices

In addition to an overview of what it would mean to pay a living wage to its associates, Novartis also needed an operational approach to implement the commitment in over 60 countries where it had a sufficient number of employees to make the calculations relevant. No established model was available for businesses looking to assess their own operations in terms of the definition of a living wage Novartis planned to apply: minimum pay sufficient to enable employees and their families to meet their basic material needs.

Any methodology for calculating a living wage had to accommodate variations between a spate of local factors, as well as regional economic differences within countries. The Novartis guideline on fair working conditions had focused on a uniform principle to be applied to all employees worldwide – so Human Resources (HR) was the obvious global line function to take responsibility for implementation of the living wage commitment. Novartis joined forces with Business for Social Responsibility (BSR) to review current best practices or leading edge lessons from other industries, and to develop a methodology for determining living wage levels.

Novartis is one of a small number of companies to commit to paying a living wage to all of its employees around the world, and BSR has partnered with Novartis in the design of its living wage programme. While acknowledging that there are different approaches to calculating a living wage, BSR believes that the methodology used by Novartis has sound empirical and theoretical support.

– Business for Social Responsibility

The Human Resources function at Novartis decided on a hybrid approach to managing implementation of a living wage. HR would propose a minimum living wage for each country, based on the methodology of calculation agreed upon. Management in each country would be consulted about the calculation and

given an opportunity to propose an alternative living wage level based on local conditions. Ultimately, the vast majority of countries accepted the initial calculation as its living wage standard. In a few countries, Novartis affiliates proposed a living wage level higher than the initial calculation based on their own market basket research.

When BSR and Novartis canvassed representatives in business, academia and government, they found general agreement that so-called “market basket studies” for each country offered the most accurate method to calculate a living wage. The market basket model entails a detailed survey of the cost of items that a typical family would need, such as housing, food, education and healthcare. But given the need for data in so many countries, Novartis decided that conducting separate market basket analyses in 60 countries would involve unnecessary cost and logistical complexity. A market basket study in a developing country can cost more than USD 5,000. Compounding the problem, institutions with the necessary skills to conduct such studies simply weren’t available everywhere.

Moreover, defining a “basic needs basket” always involves difficult choices and the Novartis initiative was no exception. Novartis, for example, offers a number of benefits to employees – from discounted prices in company canteens to selected medical services and transport subsidies – that are relevant to calculations of a living wage.

Challenged to develop a robust methodology that could address such complications and could be applied in a wide variety of countries, BSR divided the Novartis organization into two categories: OECD countries and developing countries. Availability of data was a differentiating factor; reliable economic data needed to calculate living wages generally exists in OECD countries but is lacking in most other countries.

To calculate a living wage in the OECD countries, BSR used the cost equivalent of a market basket² of food in the United States for an individual male

between 25 and 50 years old. (That data is updated every six months by the U.S. Department of Agriculture.) Then, using conversion rates based on the purchasing power parity (PPP)³ – and a series of country-specific multipliers based on food consumption patterns and other economic research data – that initial figure was extended to estimate total family expenditures across all OECD countries. This figure was then divided by 1.5, on the assumption that each family would have more than one wage earner.

Finally, the calculation was checked against a country’s minimum wage and average wage, as well as calculations of a living wage, where available. BSR found that living wage levels normally fall between the minimum wage and average wage in OECD countries.

For developing countries, a different methodology was developed. To supplement data on individual cost of food and total family expenditures that were either non-existent, or less reliable than statistics available in OECD countries, BSR used a market basket study done in Mexico by a U.S. researcher. The resulting peso amount was then converted into local currencies of relevant developing countries using the same purchasing power parity conversion method as in the OECD countries. The living wage calculations obtained for developing countries also fell between the minimum and average wage.

Some countries, such as India, commissioned local studies to review the Novartis/BSR methodology and calculations of a living wage. A study on behalf of Novartis India documented significant variations in living wage between cities. For example, the living wage in Mumbai is 70% above that in Bangalore and 61% higher than in Kolkatta. The gap primarily reflects higher housing costs in Mumbai than the other Indian cities included in the study.

Similar regional adjustments to the initial living wage calculation also were proposed by Novartis affiliates in Canada and the United States. For the U.S., the methodology resulted in a living wage of

roughly USD 23,000 a year, but in some parts of the country that figure was deemed too high based on market basket studies done regionally, so regional adjustments were considered. The living wage applied in Iowa, for example, is about USD 19,000 a year.

Other countries cited obligations to abide by prevailing collective bargaining agreements as a reason against adopting the calculated living wage level. Also, there was some concern among affiliates that Novartis would limit the amount of multiple wage tiers within a single country and calculate living wages independent of job category, title or operational unit. Yet the consultation process was designed to foster dialogue and improve understanding of issues faced by Novartis affiliates at the national and local level.

The local geographies of some of our businesses sometimes do not coincide with the data collected by BSR and therefore we need to rely on estimated data. Also, data that is not real-time can get a little stale; therefore, we sometimes rely on estimates and cost-of-living increases. Canada and Puerto Rico also provided challenges in dealing with currency fluctuations and different state and local tax policies.

—Novartis HR Director,
United States

In all, fifteen countries proposed a higher wage than the living wage calculation during the round of consultations held during 2005. Bangladesh, by contrast, proposed a lower wage, arguing that the local affiliate had more accurate local data than BSR. Six countries proposed adjustments based on geographical differences, such as urban vs. rural or cities vs. provinces. Some of those adjustments were above the proposed figure and others below. In every case, local management was able to furnish a critical reality check for the decision-making process, helping to buttress support for the implementation plan.

Following conclusion of the 2005 round of consultations with affiliates,

a review by Novartis HR found that 93 employees – out of a total workforce of more than 90,000 people – were being paid less than the living wage level in their country of employment. Wages of those employees were raised, bringing the entire global workforce in line with living wage levels.

Yet, living wages levels still need to be updated periodically. To that end, Novartis and BSR are working on procedures to update the 2005 calculations, including adjustments for key factors such as inflation. For countries with a negative inflation, Novartis recommends that wages be kept at their current levels and not reduced.

In its 2005 annual report, Novartis set new living wage targets for 2006 and pledged to continue to close the living wage gaps, including addressing the possibility of extending the living wage commitment to suppliers operating on Novartis sites.

Challenges and next steps

First mover

By being the first company in its industry to set a living wage for its employees worldwide, Novartis accepted that starting with a practical approach and continuously refining methodology would be the best way to make progress. Roll-out of the living wage project required greater investments than expected. The consultation process was also more time-consuming than expected, though at the same time it provided valuable feedback from employees and management. Often, local management embraced the living wage initiative as a clear reaffirmation by Novartis of its commitment to company values.

Internal awareness

Given that a living wage has no common definition or basis in law, active participation of both local and global functions was a precondition for effective implementation and the ultimate success of the initiative. Much of that support was generated by the extensive round of con-

sultations held during 2005 – including a guarantee that a living wage would not be implemented without agreement of the local affiliate.

Lack of benchmarks and methodology challenges

Another challenge for the company is a lack of available benchmarks. It isn't yet possible to offer a definitive answer to the question: "Are the Novartis numbers in line with what others have found?" As a next step, the company is eager to see if its calculations can be further refined. To encourage other companies to add to the collective learning about implementation, Novartis is considering publishing its data, along with an account of its experiences to date.

In particular, Novartis announced that it is prepared to discuss and share its methodology and results around the living wage initiative, in the hope that other companies will follow suit and can further improve the process. That would allow more effective external evaluation of the Novartis programme and would also help establish a living wage more firmly among major international companies.

Methodology remains a challenge, as well. Limited availability of data in developing countries is still a major obstacle to development of robust methods of calculating a living wage. More importantly, a living wage remains poorly defined, and no international consensus about methods of calculation has emerged so far. Novartis found immense differences in economic conditions between the countries and regions in which this programme was to be implemented.

Discrepancies with local managers

The yearly review process sometimes yields data corresponding to a lower living wage compared to levels calculated in previous years. While this discrepancy normally is due to increased accuracy of the living wage calculations, Novartis does not expect country

managers to reduce a living wage level if a higher level has already been agreed. The reverse – raising a living wage calculation – is acceptable, however.

Local effects

Where a living wage is higher than the local minimum or average wages, the resulting intervention in salary levels may have disruptive social and economic effects on the local communities and nationwide. Novartis may soon be challenged to justify the disruptive effects resulting from the living wage implementation.

If you give someone totally illiterate 11,000 [rupees], and if you give the same to someone who has a masters degree, for example, who would normally get between 5,000–8,000 rupees, there would be a feeling of unfairness based on issues. If we create these discrepancies we may have some difficulty with our more educated staff. If we price ourselves out of the market, this may in turn affect business decisions such as outsourcing.

– Novartis Manager
Pakistan

Looking forward

Every year, any new data that would affect the living wage calculation will be considered. For developing countries this update will involve a two-step process: An annual adjustment to the wage calculation will be proposed based on inflation, better statistical data and the PPP conversion rate. Then the data will be discussed and agreed on with the local Novartis organizations.

With the expansion of the programme, however, new challenges may arise. Is it feasible to expand the concept of a living wage to third party contractors and suppliers? Can the living wage initiative be applied to all third party suppliers? What consequences might result from implementation? Would it be more reasonable to focus on certain categories of suppliers, e.g., those that deliver high volumes to Novartis, have multi-year con-

tracts, or provide services on-site? Is there a consensus definition for an on-site contractor? How do the commercial and legal relationships of on-site contractors and Novartis differ in various countries? How would a potential change in wages to employees working on Novartis sites affect third party employers? Are there potential legal complications?

To address some of these questions, Novartis is currently studying this issue together with on-site suppliers in Switzerland.

Finding corporate partners to test the methodology

The current living wage methodology developed by BSR and Novartis is not tailored specifically to the pharmaceutical industry. In fact, the approach could be applied by other industries. BSR is exploring some potential applications. However, given that pharmaceutical companies typically own most of their operations, living wage initiatives are probably easier to implement in this industry. For companies that do not own their factories, it could be more difficult to cascade the living wage initiative further down the supply chain.

Novartis believes that it can make a difference through paying a living wage locally. As a first mover, Novartis has employed a continual improvement approach to the living wage issue: The company made this clear from the beginning. The programme was not designed to be perfect from the outset, and in the absence of examples, the only way to move forward is to learn by doing.

Endnotes

- 1 Article 25, Section 1: Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
- 2 The term “market basket” refers to a specific type of basket, or a fixed list of items used specifically to track the progress of inflation in an

economy or specific market. The list used for such an analysis would contain a number of the most commonly bought food and household items. The variations in the prices of the items on the list from month to month give an indication of the overall development of price trends. The market basket includes items depending on the country's survey.

- 3 A purchasing power parity exchange rate is intended to equalize the purchasing power of different currencies. These special exchange rates are often used to compare the standards of living of two or more countries. The adjustments are meant to give a better picture than comparing gross domestic products (GDP) using market exchange rates. Without a PPP exchange rate the GDP may not accurately measure differences in income and consumption.

Starbucks' responsible sourcing: Social guidelines from the farm to the coffeeshop

Tamar Schwartz Benzaken*

Human rights issues addressed

- Diversity and/or non-discrimination in employment
- Forced labour
- Freedom of association/collective bargaining
- Human rights and the environment
- Living wage
- Occupational health and safety
- Sphere of influence
- Supply chain

Human rights management practices discussed

- Policy
- Processes and procedures

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Abstract

This case study provides an overview of the responsible coffee sourcing practices of the Starbucks Coffee Company and the ways in which the company has incorporated aspects of the United Nations

Global Compact principles into its business practices.

The case study focuses on the Coffee and Farmer Equity (C.A.F.E.) Practices programme, which is a supplier programme that promotes improvements in product quality, economic transparency, social responsibility and environmental leadership at the producer level. The study describes how the programme works by awarding points to coffee suppliers against a defined set of criteria in return for a financial premium and a preferred supplier relationship, if warranted. The study concludes with a brief discussion on future challenges for Starbucks in coffee supply networks.

Company profile

Starbucks Coffee Company was founded in Seattle in 1971 as a retailer of coffee beans. Inspired by the coffee shops and warm coffee culture of Italy, Howard Schultz purchased the company in 1987 with the idea of selling coffee and espresso drinks in addition to coffee beans. Since then, Starbucks

has grown at an incredible rate, becoming the world's biggest retailer, roaster and brand of specialty coffee with more than 40 million customer visits per week.¹ With over 145,000 employees, the company has coffee shops in every state of America and in 36 countries around the globe, totaling over 12,000 coffeehouses and 5,000 licensed locations and joint ventures.²

In addition to coffee, Starbucks has also expanded its product line to other goods such as its own brands of bottled water, teas, and coffee-related accessories and equipment. With this immense expansion, the company achieved revenues of US\$7.8 billion in 2006 and continues to grow today.³

Corporate culture

Despite the size of its operation, Starbucks has maintained a strong corporate culture of social awareness. This is largely due to the principles that the company has incorporated into its business practices, which include: recognizing the importance of the employee work environment, embracing diversity as an essential component of doing business, and making contributions to the community and the environment a

* At the time of writing, Tamar Schwartz Benzaken was the Latin America Research Associate at Cal Safety Compliance Corporation (CSCC) headquarters in Los Angeles. Prior to joining CSCC, Tamar interned with the International Labour Organization in Geneva, during which she assisted in preparing the ILO's 2006 Global Report on Child Labour. Tamar has a Bachelor of Arts in International Relations from USC and is currently pursuing graduate studies at the University of California, San Diego. Peer review of this case study was provided by Rachelle Jackson, Wendy Barahona and Catherine Pazderka of CSCC. No funding was accepted from Starbucks for the preparation of this case study. The complete version of the study, including references and additional annexes, is available on the UN Global Compact website: <http://www.unglobalcompact.org>.

regular activity for those involved in the company. These principles are further translated into the company's relationship with employees and with the communities that surround it.

Employees

According to Chairman Howard Schultz, employee satisfaction is key: "We realize our people are the cornerstone of our success, and we know that their ideas, commitment and connection to our customers are truly the essential elements in the Starbucks experience."⁴ One way in which Starbucks demonstrates this ideology is through their employee benefit package, which is available to both part- and full-time employees and includes healthcare benefits and the Bean Stock—a Starbucks stock option plan.

Starbucks also supports an internal culture that motivates employees to generate new ideas. In fact, employees driven by a sense of social responsibility have helped to create and cultivate a number of programmes. For instance, the C.A.F.E. Practices programme originated with employees in the Corporate Social Responsibility (CSR) Department who were in contact with coffee growers. When executives were told about this programme, they recognized the benefits

it could bring to both the company and the community and approved the development of the idea. Without the initial support from the top to foster employee initiatives, it is arguable whether one of Starbucks' most influential programmes—referred to as the major legacy of Orin Smith (the company's former CEO)—would be in existence today.

According to Dennis Macray, Director of Business Practices in the Corporate Social Responsibility Department, support from Starbucks' top executives continues to be critical to the success and implementation of the C.A.F.E. Practices programme. Today, the programme is being supported by Jim Donald, current Starbucks CEO, who has made a point of tracking and communicating the progress of C.A.F.E. Practices through periodic messages, such as his weekly company-wide voicemail.⁵ This voicemail is distributed to thousands of employees, including regional, district and store managers, through a company phone extension. "These 'CSR Thursday' voicemails are an opportunity for him to highlight current initiatives, such as the launch of our Planet Green Game, or CSR-related awards and recognition the company may have received, etc."⁶

Jim Donald ensures that many of these messages also update employees on the advancements of the C.A.F.E. Practices program.

Introduction

Now operating in almost 40 countries, the Starbucks Coffee Company brand is widely recognized around the world. However, with this high public profile comes a high level of public responsibility. In response to demand from the socially conscious consumer and other important stakeholders, Starbucks has developed a wide range of corporate social responsibility practices that are being implemented at various levels of its supply chain. One such initiative designed for the farm level is Starbucks' responsible sourcing programme called the Coffee and Farmer Equity (C.A.F.E.) Practices. Through the environmental and social guidelines it stipulates for the coffee supply chain, and in combination with financial incentives and lasting supplier relationships, the C.A.F.E. Practices programme illustrates how business practices have the ability to contribute to improving the lives of individuals in coffee-producing communities, communities that Starbucks regards as within its sphere of influence.

Table 1: Select principles from UNGC⁷ and Starbucks Guiding Principles and Environmental Mission Statement⁸

UNGC principles	Starbucks Guiding Principles
Businesses should support and respect the protection of internationally proclaimed human rights; and	Provide a great work environment and treat each other with respect and dignity.
make sure that they are not complicit in human rights abuses.	Embrace diversity as an essential component in the way we do business.
Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;	Apply the highest standards of excellence to the purchasing, roasting and fresh delivery of our coffee.
the elimination of all forms of forced and compulsory labour;	Contribute positively to our communities and our environment.
the effective abolition of child labour; and	Develop innovative and flexible solutions to bring about change.
the elimination of discrimination in respect of employment and occupation.	Strive to buy, sell and use environmentally friendly products.
Businesses should support a precautionary approach to environmental challenges;	Recognize that fiscal responsibility is essential to our environmental future.
undertake initiatives to promote greater environmental responsibility; and	Instill environmental responsibility as a corporate value.
encourage the development and diffusion of environmentally friendly technologies.	Measure and monitor our progress for each project.
Businesses should work against all forms of corruption, including extortion and bribery.	Encourage all partners to share in our mission.

Drinking coffee responsibly: Starbucks' coffee supply chain

A US\$55 billion industry, coffee is the second most widely traded commodity in the world and is subject to highly volatile commodity price fluctuations. Although coffee prices have been falling for the last few decades, averaging about US\$1.20 in the 1980s, they hit an unprecedented low of US\$0.50 in 2001.⁹ The drop in prices caused extreme economic and social hardship for an estimated 25 million families worldwide that were dependent on coffee production for a living.¹⁰

Faced with this coffee crisis, Starbucks saw an opportunity to set better standards and pricing for its suppliers, a position the company has taken "since its inception, [when it] understood and embraced the idea that the company could be a leader in promoting sustainable practices in the coffee sector."¹¹

Starbucks started reviewing the conditions of its supply chain as early as 1995, by developing a framework for a code of conduct. Three years later, Starbucks launched a partnership with Conservation International (CI) to specifically address environmental concerns. Since then, Starbucks has implemented six additional initiatives for its coffee supply chain, which include: fair trade certification, organic and/or shade grown, affordable loans to farmers and community development projects, technical agronomic support, and the C.A.F.E. Practices programme (the focus of this case study).

C.A.F.E. Practices

The C.A.F.E. Practices programme is Starbucks' internal coffee sourcing programme. It comprises a set of environmental and social guidelines against which suppliers are scored. If suppliers achieve good standing, they receive premium prices for their coffee and are given first consideration when Starbucks is making purchasing decisions. By providing financial incentives

to suppliers to continuously improve their social and environmental practices, Starbucks aims to create enduring relationships with them and to secure long-term improvements. It also hopes to improve the lives of coffee-growing communities and other communities that surround its business operations.

Development phase:

The Preferred Supplier programme

The C.A.F.E. Practices programme evolved from the pilot project known as the Preferred Supplier programme or PSP. This initiative began in 2000, when Starbucks launched a multi-stakeholder process that included CI, the Rainforest Alliance and the Smithsonian Migratory Bird Center to develop in-depth guidelines on social and environmental issues in the coffee supply chain. By 2001, guidelines were set for the two-year PSP pilot project, in which Starbucks paid premium prices to those suppliers that achieved a certain standing against the requirements. During this period, third-party independent parties verified the compliance of coffee producers with programme guidelines. After a successful assessment, approved suppliers then received a premium price for their coffee. For every 10 points achieved, Starbucks awards a US\$.01 sustainability premium per pound of green coffee purchased from approved suppliers. By the end of 2003, 166 suppliers and farmers from 16 countries had applied, with 60 of these approved for the PSP.¹² From these preferred suppliers, Starbucks purchased 13.5 million pounds of coffee at a premium price.¹³

Challenges faced

During the pilot phase, stakeholder feedback identified three major challenges to implementing a sourcing programme that rewarded suppliers based on performance: (i) the inclusion of all sourcing regions into the system, (ii) increasing supplier comfort with the independent verification process, and (iii) uniform and consistent guidelines.¹⁴

i) Including all sourcing regions: Asia and Africa

According to Dennis Macray, in contrast to Latin America, where the programme was rolled out with rapid acceptance, implementing the programme in Asia and Africa was a challenge. The difference was primarily due to existing infrastructure and strong supplier relationships already present in Latin America. For the remaining regions of the world, however, Starbucks would have to make changes to accommodate different supply chains. To date, programme expansion and implementation is still an ongoing effort in Africa and Asia.

ii) Relationships between suppliers and third-party verifiers

For many farmers, especially those with limited exposure to this type of interaction, preparing for the assessments was challenging at times. Starbucks continues to work with farmers on these issues through continued communication and local stakeholder engagements. Education sessions focus on understanding the verification process and what it entails as well as potential benefits.

iii) Developing uniform and consistent guidelines

To create a credible programme that provided a progressive way of looking into a supply chain, Starbucks realized that measurable, objective indicators were a necessary component. In an interview, Macray noted "Starbucks sought to implement the programme with transparency and to audit its performance. However, it became clear that suppliers and verifiers were demanding programme improvements and adjustments to ensure uniform and consistent application of the guidelines as well."¹⁵ To accomplish this objective, Starbucks forged a strong partnership with Scientific Certification Systems (SCS), a third-party provider of certification, auditing and standards. Together with SCS, Starbucks reviewed

the learning experiences from the PSP pilot to establish new and stronger guidelines that, in 2004, became officially known as the C.A.F.E. Practices.

C.A.F.E. Practices guidelines

The result of Starbucks' partnership with SCS was a set of 28 indicators in four categories: product quality, economic transparency, environmental practices and social responsibility. These categories are elaborated below. To become a C.A.F.E. Practices supplier, coffee farmers, processors and exporters must meet minimum requirements. However, if they also meet best practice standards, scoring high on the aforementioned categories, they receive preferential buying status and higher prices for their coffee. These scores are assessed and calculated by third-party verifiers.

Product quality and economic transparency

To assess the quality of the coffee beans, suppliers send samples of their coffee to Starbucks headquarters. To ensure economic transparency, Starbucks requires suppliers to present invoices related to the trading of coffee, both up and down the supply chain. By doing this, Starbucks can ensure that the premium coffee prices paid by Starbucks are transferred throughout the supply chain, reaching the farmers (producers) at the bottom. However, because the level of transparency varies, depending on the supply chain (see Figure 1), all trade-related documents may not be available at all times and therefore may not enable the prices to be traced all the way to the coffee farmer.¹⁶

Environmental practices

In the C.A.F.E. Practices programme, the focus is primarily on water and soil protection, providing measures to avoid contamination and erosion and ensure continued productivity of resources. There are also a number of guidelines focused on biodiversity and wild animal preservation.

Social responsibility

In the C.A.F.E. Practices programme, the focus is on hiring practices and employment policies, and working conditions.¹⁷

A) Hiring practices and employment policies

There are four criteria under this category, which are designed to ensure that employees are being properly protected and that hiring practices and benefits are fair. Although verifiers assess supplier practices in relation to local laws, suppliers are encouraged to continually improve their business practices and achieve compliance with international standards.

1. Wages and benefits

Suppliers are required to show proof not only that wages provided to employees, including apprentices, meet or exceed the local legally mandated minimum wage but also that employees receive the benefits they are entitled to by law. Suppliers must also provide equal pay for equal work, avoiding gender and other types of discrimination. Local limitations on work hours and overtime hours must also be respected, and in cases where employers make overtime hours obligatory, employees must be informed of this during the hiring process. Moreover, financial penalties cannot be imposed as a form of disciplinary action.

It is important to highlight that these requirements are also included under C.A.F.E. Practices zero-tolerance issues. Suppliers who fail to comply with these requirements risk having their relationship with Starbucks suspended or terminated. Suppliers can be awarded additional points if they provide employees with a living wage—a salary that is above national minimum wage

and that covers the cost of living particular to the employee's location and life conditions—and a pension scheme.

2. Freedom of association and collective bargaining agreements

Employees in the Starbucks' supply network must be allowed representation before their employer and a formal channel to report grievances without suffering reprisal.

In order to score additional points, suppliers must fully comply with freedom of association and collective bargaining laws and they must also hold regular meetings with employees to discuss working conditions and remuneration. Additionally, if a workers' association has already been established in the region for the coffee industry, a collective bargaining agreement must be in place for the supplier to obtain the additional points.

3. Vacation days and sick leave

Suppliers must grant employees one day of rest for every seven days worked. In cases where country law grants employees more than one day of rest, local law should be respected. Also, employers must have a paid sick leave programme in place for full-time employees.

To obtain additional points, the supplier should extend the sick leave programme to all employees and allow them to accrue their paid vacation days.

4. Child labour, discrimination, and forced labour

In its verification guidelines, Starbucks states that it does not accept direct contracting of any persons under the age of 14, but exceptions are made for family or small-scale farms that do not regularly employ hired workers.

Zero-tolerance issues relating to discrimination are “on the basis of race, color, national origin, gender, sexual orientation, religion, disability or other similar factors, in hiring practices or any other term or condition of work, including assignment of work, occupational training, promotion, remuneration, granting of social benefits, discipline or termination.”¹⁸ In addition,

The use of any forced or involuntary labour, either directly or indirectly, by suppliers, contractors or subcontractors will not be tolerated. This includes the use of slave labour, bonded labour, indentured labour or involuntary convict labour. Workers must be free to leave the workplace at the end of their shift and to resign without repercussion. Suppliers must not use corporal punishment or any other form of physical or psychological coercion. (C.A.F.E. Practices Generic Evaluation Guidelines, 2004)

Besides the age limitation imposed by Starbucks, suppliers must comply with local law regarding the employment of minors, including compulsory school hours, hours of work, wages and working conditions. Suppliers must have and enforce a policy against slave, forced, bonded, involuntary and indentured labour. The policy should also include the prohibition to employers to withhold the original personal documents of employees or demand deposits as a condition for employment.

The maximum points under this category are obtained if the supplier has a written or oral policy of non-discriminatory hiring, employment and advancement plan and also sponsors or supports educational programmes for its employees.

B) Working conditions

Four criteria that are used to verify the safety of workers and to ensure that they are not exposed to workplace health hazards. The aim is to motivate employers to improve the work and living conditions of employees, not only according to local law, but also according to international best practices.

5. Housing, potable water and sanitary facilities

Employers must provide access to clean and sanitary facilities, access to potable water, and garbage collection.

If the supplier provides good living conditions to all employees and their immediate families and also provides garbage collection to all their housing facilities, he or she is awarded the maximum scoring points.

6. Access to education

Employers should provide workers' families with access to educational programmes. If the supplier supports or provides educational programmes at the site of work and provides incentives to families to enroll their children in such programmes, he or she receives the maximum score for this category.

7. Medical care

Employers should have transportation or a care plan in place to assist employees in case of emergencies and also have adequate first aid materials on site. Employers achieve higher scores if they provide medical care to workers' families and local residents and if the employer maintains communication with employees in case of a medical emergency.

8. Training and safety protocol for pesticide usage

Scores depend on the ability of the employer to provide employees with appropriate safety training for the use of equipment and the handling of chemicals. Also, they should provide and ensure the use of personal protective equipment when necessary, at no cost to employees. Higher scores are awarded if employers have a contingency plan for pesticide spills and overexposure. Starbucks also looks for employer protocols that prohibit children and pregnant women from handling agrochemicals.

The preceding guidelines apply to all Starbucks suppliers but are slightly modified for smallholder farms and producer associations. Smallholder farms are those smaller than 12 hectares that are helped to collect and sell their coffee by producer associations, of which cooperatives are included. The scoring mechanism has been adjusted for these entities to the extent that smallholders and producer associations in compliance with the guidelines will score half a point, or be non-compliant with the indicator. The total points that can be accumulated by smallholder farms are 46, 16 points for social compliance and 20 points for environmental practices. Producer associations can receive a total of 26 points, 17 points for social and 9 for environmental. The decision to score smallholder farms and producer associations differently came from the PSP pilot project feedback. Based on the comments, it was agreed that small farms are managed differently and face different challenges than large estates and should therefore fall under a scoring mechanism that reflects these distinctions. As a result, the evaluation does not score smallholder farms on aspects such as collective bargaining issues or employee-to-management meeting protocols (i.e., formal

employee grievances mechanisms), as these are not present in smallholder farm settings. This differentiation allows both smallholder farms and larger entities to be incorporated into the scoring system.

Prior to third-party verification, C.A.F.E. Practices requires suppliers to conduct self-assessments of their own supply chain against the program's guidelines, describing in detail their entire supply network. These allow the supplier to identify areas that require improvement and attempt to make these improvements prior to undergoing the third-party assessment. Awareness of existing deficiencies may also increase the supplier's receptivity to the findings and recommendations of the third-party assessment. Once the company receives the supplier's documentation, the process of third-party verifications begins. To determine which members of the supply chain will be assessed, verifiers, contracted by the suppliers, will conduct a stratified random sampling of the supply chain.

Overall, a total of 100 possible points can be accumulated by suppliers, after fulfilling the economic and quality requirements, with 40 points for social responsibility guidelines and 60 for environmental leadership practices. Depending on the percentage of points they achieve during the assessment, suppliers are placed in three different categories—strategic, preferred and verified. For suppliers achieving strategic status, Starbucks awards a US\$.05 premium per

pound of green coffee purchased in addition to first consideration in purchasing decisions. If performance is improved by 10 percentage points from one assessment to another (within a year), these suppliers can then also receive an additional premium of US\$.05 per pound of coffee sold to Starbucks.²⁰ Ultimately, the goal of the scoring system is to establish a long-term relationship with preferred suppliers, eliminating uncertainty and the volatility of prices that dominates the industry. The financial incentives provided to suppliers through C.A.F.E. Practices, or at least a portion thereof, are then intended to be reinvested into the production system to improve various social and environmental conditions at the producer level, further increasing the opportunity for scoring higher in the points system.

In 2006, Starbucks purchased 155 million pounds of coffee from C.A.F.E. Practices suppliers. The distribution according to supplier category was as follows:²¹

- Strategic = score of 80% and higher in social and environmental areas: 19%
- Preferred = score of 60% and higher in social and environmental areas: 12%
- Verified = score of less than 60% in social and environmental areas: 69%

Criticism and recognition

Even the most progressive leaders in social responsibility are subject to criticism, and Starbucks is no exception. Although the company has been praised for its leadership in the coffee industry, it has also been criticized for issues within the supply chain.

Criticism

Starbucks has been accused of intimidating employees who join labour unions and for posing challenges to the cultural identity of the places in which its coffee shops operate.²² In response to such claims, Starbucks has said that it prefers to have a direct dialogue with its employees, but that it does not reprimand those that choose to join unions. Regarding the issues of cultural identity, Starbucks makes an effort to build and install its stores in a way that respects the cultural context of the city in which it is located.

Regarding Starbucks' sourcing practices, a few NGOs, including Global Exchange, argue that Starbucks does not sufficiently promote its fair trade coffee, resulting in low sales of the product. Global Exchange states:

...Consumers have reported an inability to get brewed and bagged Fair Trade Certified coffee in Starbucks stores across the USA. Promotion has been limited by a lack of relevant information in stores and other communication channels (ads, website), poor placement of bagged

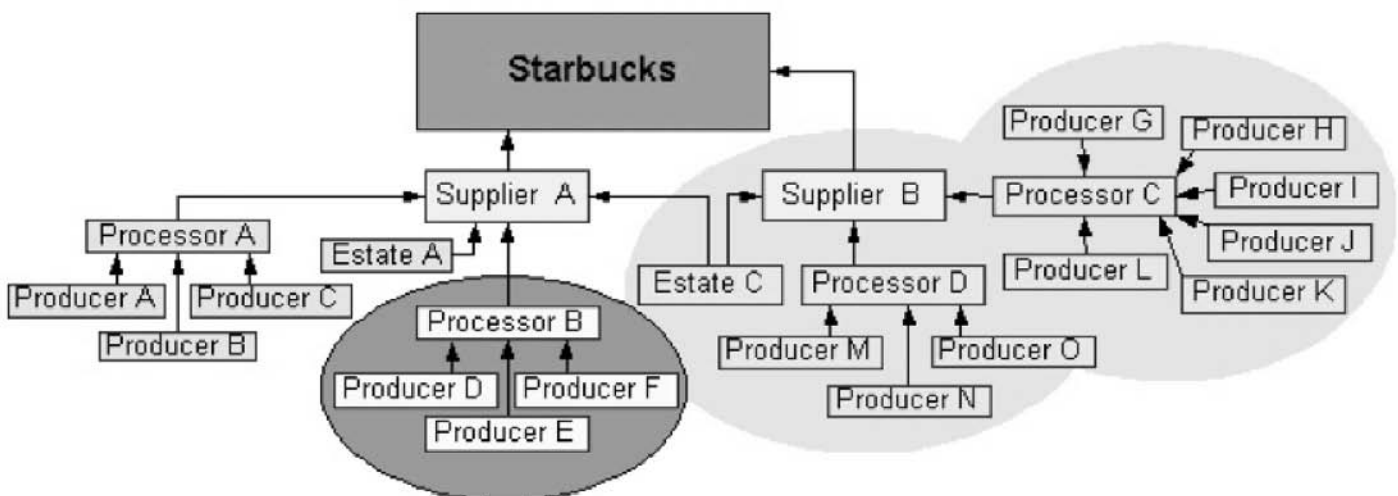


Figure 1: Starbucks' coffee supply chain¹⁹

*Fair Trade coffee (on low shelves with least visibility), and the availability of only one Fair Trade blend—resulting in lower than hoped for sales.*²³

Put into perspective, Starbucks' total sales account for only a small percentage of total market sales worldwide. Despite the relatively small market, however, Starbucks continues to increase the quantities of product purchased, growing from 2.1 millions pounds in 2003 to 4.8 in 2004, to 11.5 in 2005, and finally to 18 million in 2006.²⁴

Another sourcing issue relates to criticism over a patent issue of its Ethiopian coffee. Oxfam, acting as the lead NGO challenging Starbucks on the issue, states:

The Ethiopian government launched a project to get legal ownership of its fine coffee names – Sidamo, Yirgacheffe, and Harar. Ethiopia approached Starbucks more than a year ago asking the company to lead by example and to discuss an agreement that would acknowledge Ethiopia's ownership of these names. So far, Starbucks has refused to sign the agreement, or even talk seriously about it with the Ethiopian government. Oxfam is calling on Starbucks, as an industry leader, to affirm its commitments to farmers by signing the agreement. If Starbucks and other companies signed such agreements, estimates suggest that it could generate an additional \$88 million in annual revenues for Ethiopia.

Oxfam organized Starbucks Day of Action in 16 December 2006 in twelve different countries. The demonstrators asked Starbucks to honor its commitment with Ethiopian farmers by granting the Ethiopian government the rights to its coffee names.

In response to the issue, Starbucks has stated in various press releases that CEO Jim Donald and his executive team had positive meetings with African

coffee farmers, producers and government officials in Kenya, Tanzania, Rwanda and Ethiopia toward finding solutions to the problem. The company also stated, "Starbucks has never filed an opposition to the application to register trademarks of Ethiopia's regional names. The applications to register Harrar, Harar and Sidamo have been rejected by the U.S. Patent and Trademark Office." The reality is that Starbucks does not own these names and so the decision to grant the rights to use them does not belong to the company. The most recent development of the ongoing dialogue between Starbucks and the government of Ethiopia is seen in the following joint statement:

*The Government of Ethiopia and Starbucks have agreed to work together in their shared vision to increase Ethiopian farmer incomes and enhance the sustainable production of fine coffee. Both the Government of Ethiopia and Starbucks recognize that there may be differences in approach to achieving this shared vision. Starbucks respects the right and choice of the Government of Ethiopia to trademark its coffee brands and create a network of licensed distributors. Starbucks will not oppose Ethiopia's efforts to obtain trademarks for its specialty coffees – Sidamo, Harar/Harrar and Yirgacheffe – and its efforts to create a network of licensed distributors.*²⁵

Recognition

While subject to a fair amount of criticism, Starbucks is also the recipient of accolades from many fair trade advocacy NGOs such as TransFair USA, as well as various business associations and research groups. For instance, in an assessment conducted by the Centre for Corporate Citizenship at Boston College on Starbucks' responsible sourcing programmes, 11 suppliers around the world were visited and stories gathered about how suppliers' lives have benefited from working with Starbucks.

According to the author of the study, most of these improvements were due to the premium prices paid for the coffee, the credit loans and the agronomic technical assistance provided by Starbucks in the field. Although the author of the study acknowledges that not everyone has been able to benefit from the Starbucks programme and that implementing C.A.F.E. Practices guidelines can be costly, he states:

*If Starbucks were running for political office and pollsters asked farmers if they were better off today under its influence than they were four years ago, the overwhelming majority would certainly say yes. That's a good sign that the effort so many companies struggle with – to embed the principles of corporate social responsibility into everyday core business practices – is well under way at Starbucks.*²⁶

The leadership role Starbucks has taken in the industry has also been noted. "With these guidelines, Starbucks is taking a leadership role in addressing the environmental and social issues surrounding the global coffee industry," said Glenn Prickett, executive director of The Center for Environmental Leadership in Business. "We hope that the success of this programme demonstrates to the rest of the coffee industry that they can benefit by producing coffee in a way that protects global biodiversity and improves the livelihoods of coffee farmers."²⁷

One of the biggest testaments of support for Starbucks comes from the business world and various investments indexes. In total, the company has been listed in twelve socially responsible investment indexes, which include the Calvert Social Index, FTSE4-Good, Domini 400 Social Index, and the Dow Jones Sustainability Index.

Starbucks' next brew: The company's future challenges

The first challenge facing C.A.F.E. Practices is ensuring continuous improvement in its supply chain, as well as providing sufficient incentives for farmers to continue to advance their practices, especially once they have achieved strategic supplier status. For example, if a farmer has achieved a score of 80%, incentives must continue to be provided to ensure that they will continue to improve production practices and strive towards an even higher score.

The second challenge is the continued pressure for transparency in the supply chain. Further transparency of payments both up and down the coffee supply chain is one way that the company can truly ensure that farmers are receiving the benefits of the premium prices the company pays for its coffee.

Finally, there is scope to further develop the company's social responsibility indicators. In the past, Starbucks partnered with Conservation International to ensure that credible and objective environmental principles were applied to its supply chain. Similarly, Starbucks provides technical assistance to suppliers through its Farmer Support Center in Costa Rica, which assists their production mechanisms to ensure more environmentally sound coffee production. By duplicating these efforts on the social side, such as by forging a similar partnership with a social and labour compliance institution, the programme's social responsibility indicators could be enhanced. Equally, a partnership with a social labour institution could also be used to provide assistance at the farm level in order to increase labour compliance, through training and education of farmers.

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Embedding human rights at Titan Industries Ltd.

Oonagh E. Fitzgerald*

Human rights issues addressed

- Social investment and community development
- Diversity and/or non-discrimination in employment

Human rights management practices discussed

- Processes and procedures

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Abstract

This case study examines elements of the Corporate Social Responsibility (CSR) approach of Titan Industries Ltd.

Though Titan has several initiatives in this area, this case study concentrates on one such initiative as an example that helps to recognize and advance key economic, cultural and social human rights: a programme aimed at enterprise development for disadvantaged women. It is intended to help empower this group and help tackle poverty, but it is also linked to Titan's supply chain. The case study contextualizes this initiative within Titan's CSR programme. In doing so, it offers one model of the relationship between philanthropy and CSR. The case study also considers the factors at Titan that underpin its approach to CSR and philanthropy, and concludes that they encompass the company's history, reputation and executives; its philosophical

belief in its social purpose reinforced by self-enlightened interest in succeeding in the communities and markets in which it operates; a shared vision modelled by the company's leadership and employees; and awareness, understanding and management of human rights aspects in business decision making.

Company profile

Titan Industries Ltd was established in 1984 as a joint venture between the Tata Group and the Tamil Nadu Industrial Development Corporation. It has operations in 30 countries covering the Middle East, Africa and Asia Pacific, with 325 exclusive brand stores plus 12,000 sales outlets and more than 750 service centres. The company has its registered office at Hosur, Tamil Nadu, India, with manufacturing and assembly operations at Hosur, Dehradun and Himachal Pradesh and an electronic circuit board unit in Goa.¹

The Tata Group and CSR

To understand Titan's approach to human rights-related CSR, it is necessary to examine the company both in its own right and in relation to the greater Tata Group. Titan's connection with the Tata Group and Tata's long history of social engagement help to explain how the commitment to CSR became entrenched in the Titan business model. What is now the Tata Group has grown to be a USD 48 billion conglomerate comprising 96 companies active in seven business sectors: Engineering, Materials, Energy, Chemicals, Consumer Products, Services and Communications, and Information Systems. The Tata Group is India's best-known industrial group with a

turnover equivalent to about 3% of the country's GDP. It is also India's largest private sector employer, with about 250,000 employees. The Tata strategy is increasingly turning global with numerous international acquisitions in recent years.²

Over a century ago, Jamsetji Tata, founder of the Tata Group, envisioned the good corporation as one committed to serving its host community and extending the benefits of prosperity to all of society, including its most disadvantaged members. He committed the Group to achieving this early vision of CSR. Today, the integrated Tata model guides the conduct of Titan and others in Tata's vast family of enterprises. The Tata Group appears to have long believed in returning wealth to the society it serves. Philanthropy is viewed as a precondition for building a sustainable relationship with the community, and indeed CSR is often described as Corporate Sustainability. The Tata approach seeks to integrate CSR considerations into the very core of the business with shareholder, employee, community and national interests all being taken into account in decision making. The Tata Group includes major trust funds dedicated to science, higher education, specialized hospital care and community development. The various Tata Group companies and trusts make substantial contributions to community initiatives (estimated at about 30% of yearly after-tax profits).³ The Tata Group has a business model where two thirds of the Group's promoter companies are held by philanthropic trusts involved in serving the community, whether through hospitals, education or service and research centres. The Tata Group's CSR activities are facilitated and encouraged

* Oonagh E. Fitzgerald, BFA, LLB, LLM, MBA, SJD. Peer review of the case study was provided by Mr. Arun Maira, Chairman (India), The Boston Consulting Group. The case study was prepared without financial support from Titan Industries Ltd. The complete version of this case study, including references and additional annexes, is available on the UN Global Compact website at www.unglobalcompact.org

through a central nodal agency, the Tata Council for Community Initiatives (TCCI), which sets guidelines and measurement indicators like the Tata Index for Human Development.⁴ The Tata Group is a signatory to the Global Compact principles and follows triple bottom line reporting by key companies in accordance with the Global Reporting Initiative (GRI) guidelines, which entails comprehensively measuring and auditing the company's contribution against economic, ecological and social parameters.⁵

The Tata Business Excellence Model (TBEM), a derivative of the American Malcolm Baldrige quality model, was introduced by Ratan Tata after he assumed responsibility for the Tata Group in 1991.⁶ The objective of TBEM is to ensure that the Tata Group companies achieve defined levels of total organizational excellence, delivering ever-improving value to customers, contributing to marketplace success, improving overall organizational effectiveness and capabilities, and nurturing organizational and personal learning, with CSR treated as a priority. Journalist Srinivasan describes TBEM's core values and concepts as including:

- i) visionary leadership;
- ii) customer-driven excellence;
- iii) continuous improvement and learning;
- iv) valuing employees and partners;
- v) agility;
- vi) long-range view of the future;
- vii) managing for innovation;
- viii) management by fact;
- ix) public responsibility and citizenship;
- x) focus on results; and
- xi) systems perspective.⁷

The Tata Group also has a written policy on ethics called the Tata Code of Conduct on Ethics in the workplace. Counsellors communicate and help implement the Code. Titan communicates the Tata Code of Conduct through various channels—namely, booklets, intranet, posters and a unique feature film—to every employee of the company and also to all its vendors and franchisees, trade partners and contractual

personnel, who are required to follow the same standards of conduct. Titan has 33 locational counsellors, headed by a Chief Ethics Counsellor available to help with problems and ethical dilemmas that may arise in the company. Titan also has articulated policy documents on Quality, Environment, Health, Safety, Employing Disabled Persons, Sexual Harassment⁸ and a Whistle Blower Policy.

The TBEM is a model with an emphasis on internalizing process orientation in the organization. Thereafter, it tracks and measures performance and identifies opportunities for improvement through evaluation and improvement. Tata Group companies participate in an annual process of external assessments by trained assessors, based on TBEM parameters. In short, the TBEM model institutionalizes business excellence.

Tata Quality Management Services (TQMS), an arm of Tata Sons, benchmarks and enforces the quality standards and systems to be followed by the Tata Group. Only companies that qualify are permitted to use the Tata brand name. Companies must demonstrate their continued compliance with the Brand Equity Business Promotion scheme by scoring well under TBEM, and adhering to the principles of Management of Business Ethics and the Code.⁹ Given the value associated with being permitted to use the Tata brand, there is a strong incentive to comply. The JRD QV award¹⁰ is given to the company achieving a score of 600 marks out of 1,000, providing a further brand advantage to the winner. Titan Industries-Time-Products Division received this award in 2006–2007.

Tata's history, TBEM, the Tata Code of Conduct, benchmarking by TQMS and guidance and support of TCCI, all contribute to creating a corporate culture within the Tata Group in which human rights-related CSR is treated seriously and professionally, and integrated into business decision making. Titan is able to draw on the expertise and experience of the Tata Group in designing and successfully implementing human rights-related CSR initiatives.

The Indian business context

Many other Indian companies are also active in social development-oriented CSR projects.¹¹ The prevalence of CSR projects in the Indian corporate community provides a supportive environment for the Tata philosophy. IndianNGOs.com¹² offers a definition of CSR that is consistent with the approach being advocated by senior management at Titan and other Tata companies: "Corporate Social Responsibility is a business process wherein the institution and the individuals within are sensitive and careful about the direct and indirect effect of their work on internal and external communities, nature and the outside world." Key features of this definition are that it concerns inward and outward perspectives, the character and culture of the corporation, the making and distributing of profits and sustainability, business process and the day-to-day activities of all employees and their social development partners.

IndianNGOs.com defines a corporation's stakeholders as "all those influenced by its decisions and actions, either locally or internationally," including "employees, stockholders, suppliers and contractors, consultants and business associates, neighbourhood communities, customers and the environment."¹³ Similarly, Titan defines its relationships with stakeholders in an inclusive way that encompasses not just shareholders, but Indian society, the local community in which it operates, Titan employees and their families, and local NGOs. Thus, in making an offer to shareholders for a recent Letter of Offer for Equity Shareholders, Titan describes in matter-of-fact detail its commitment to CSR:

We have a well-defined policy on social responsibility. Our corporate social responsibility strategy is a process of balancing our relationships with a variety of stakeholders in the community. We assist the community at three levels:

- (i) as a member of the Tata Group,
- (ii) as a corporate entity and
- (iii) fostering the spirit of volunteering at the individual level.

We also contribute to the initiatives taken by the Tata Group.¹⁴

Indian corporate law generally, and the statutory duties of boards of directors specifically, do not appear to limit the ability of a company to take this integrated approach to human rights-related CSR.¹⁵ Thus, in describing the CSR programme to shareholders at the 2005 Titan Annual Meeting, Company Chairman Rameshram Mishra reports on its community partnerships and “in the spirit and tradition of the Tata Group and the Government of Tamilnadu,” affirms Titan’s philosophy, that “a company cannot be an island of excellence in a sea of deprivation,” and its commitment to the Global Compact Ten Principles.¹⁶

Effective integration of human rights-related CSR into the business model is not a simple or superficial affair, but requires a deep reflection and transformation in the way a business enterprise conceives its identity and purpose, and an alignment of the company’s leadership, employees, business strategy, human resources, risk management, partnerships, community relations and communications around the clarified and integrated CSR-business vision. Anant Nadkarni, Vice President TCCI, explains how every company should develop and nurture its own model of CSR as an integrated part of the business model for greatest leverage:

In a properly defined business model the company’s values and its approach to business get properly integrated with its social responsibility into one coherent entity without a dissonance. This generates the assurance one looks for when people at large seek a credible partnership with the corporate world. This approach also comforts shareholders on what their companies are really up to.

On the other hand, employees are clear when their business goals, core strategy and development activity are set in the same

frame. Employee motivation to volunteer is enhanced by a systematic approach to CSR. This way the company finds a huge potential in employees to become “evangelists” of its basic value system. Developing a model for CSR in consonance with business strategy therefore goes a long way to build more credible brands.¹⁷

Mr. Nadkarni endorses the India Partnership Forum, a joint initiative of UNDP India and the Confederation of Indian Industry (CII) seeking “to promote multi-stakeholder dialogue on Corporate Social Responsibility issues and a common understanding of good corporate citizenship particularly through evolution of a common code.”¹⁸ The IPF has produced a Social Code for Business. The Tata Code of Conduct emphasizes the interdependence of business and the well-being and self-reliance of communities. Mr. Nadkarni points out those companies adopting this code systematically weave CSR into their business process and strategy, thereby linking their social development work to areas of their core competence, building their human resource policy to support these activities and strengthening the credibility of their efforts.

Titan’s CSR strategy

Titan Industries has a varied and aggressive CSR agenda, founded on the notion that “companies can do well by doing good” and that “business needs must not diminish the capacity of future generations to meet theirs.”¹⁹ Under the broad rubric of sustainable development, Titan gives a modern CSR spin to measures that it feels are consistent with Tata’s founding philosophy and values. In presenting its 2006–2007 business plan for sustainable development, Titan describes the business case for CSR as competitive advantage, cost reduction, ability to attract and retain the best employees and strengthen productivity, enhanced consumer empathy, creating a better environment, and creating the

image of a sharing, caring and successful company. In short, a triple bottom-line approach to a sustainable business. “Successful business can only thrive in a successful society,” is a refrain commonly heard at Titan.

Titan’s CSR strategy includes elements related to good governance, human rights, environmental protection and sustainable development, as well as community, social, economic and cultural development. The company’s business plan refers to providing micro business opportunities and support to poor village women and individual jewellery artisans (Karigar); employing disabled persons; taking environmental protection initiatives; sponsoring educational institutions and programmes and offering scholarships; supporting health care projects; and abiding by the Tata Code of Conduct, which provides the framework within which the company operates. Titan has several major CSR projects on education and community engagement.²⁰ Lessons learned from the initiative described in this case study, which empowers disadvantaged women, have helped shape other company initiatives. Titan’s CSR initiatives have won the company public recognition and numerous awards. But importantly, the awards are sought more for the validation of the company’s robust processes than the actual awards.

Titan’s engagement in CSR appears to be grounded in the company’s vision and sense of its role in Indian society: The success of business depends on the success of society. Titan’s philosophy was encapsulated by Mr. Chakravarti, speaking in October 2004 at a conference in Hong Kong, who echoed the doctrine of the founder Jamsetji Tata:

Simply put, business is no more than a trustee of society, environment and the community. What comes from the people must go back to the people. In short, we try and remember the very reason and basis of our existence as a company—it is for the society. If society is sustained, so will we [be].²¹

Women's empowerment

Management of Enterprise and Development of Women (MEADOW) began as a programme to help combat female infanticide in the erstwhile Dharmapuri district (now called Krishnagiri), and to better the standard of living of women in these communities. Titan's involvement started by hiring women to make chappatis (bread) for the factory workers. Later, they were asked to take care of the laundering of uniforms.

However, innovation came when, in 1995, Titan joined hands with Myrada,²² a well-regarded NGO that works on social causes. Pooling Titan's business expertise with Myrada's community development skills, Myrada helped identify the women's needs and match them with what the company could do. One outcome was a commitment to building sustainable livelihoods through linking the philanthropic efforts to Titan's core business activities and own supply chain. Consequently, a bracelet-making unit was started. Titan provided the training and, together with Myrada, helped with acquisition of the equipment needed to make the components.

Satisfied with the quality of workmanship and professionalism displayed by the women, Titan then decided to convert the initiative into a privately held company, one owned and run by the women themselves. MEADOW was thus born. To make the initiative sustainable, Titan provided the technical training and expertise in the running of a business. Today, nearly 200 women of these villages own MEADOW. MEADOW has three women directors who have seen the organization grow from its early days. Profits of the company are equally shared among the employees with a significant amount being added every year to the corpus fund, which takes care of the company's various needs and also raises the standard of living for the employees' families.

Titan's association with the MEADOW programme has helped to empower 200 women in the workforce, who take pride in the fact that they have been

involved every step of the way in building and running their company. They have reached levels of capability where they can directly negotiate with Titan in the annual revision of piece rates, handle all purchases, control the movement of their vehicles, draw up work schedules, calculate payments, follow up on receivables, do the base work for meeting all statutory requirements, etc. In many cases, these women have become the most important wage earners in their families. Titan representatives meet with MEADOW employees on a regular basis for weekly and monthly production-related meetings and for periodic meetings on annual price negotiations, new opportunities and major process modifications.

Currently, MEADOW has a corpus fund of Rs.30 Lakhs,²³ it has declared a dividend of 33% to shareholders (who are also the employees of MEADOW) and the Titan-MEADOW association has seen steady and sustained growth. Having begun as a single unit, MEADOW now spans four units. During January 2003, MEADOW started one more unit to undertake some of the strapping operations of Titan. Since the project's inception, 20 women have gone on to pursue higher education and are now graduates. Positive changes in standard of living (like housing, savings, etc.), social recognition and health in the communities in which MEADOW operates have also been observed.²⁴

Another case study concerning Titan's CSR practices reports the following observations from managers. Titan's Manager of Human Resources explained that "[t]hese women had become the most important wage earner in the family. Consequently, their social status within their family and communities had changed dramatically."²⁵ The women were no longer under pressure to marry at such an early age and were increasingly consulted in important decisions made by their families and in-laws.²⁶ Titan's General Manager (CSR) has observed that "the girls are paying off debts, contributing to purchase of assets, educating their siblings, picking up medical bills, and making savings in cash and gold."²⁷

Following is a personal experience of one of MEADOW's employees taken from the above-mentioned case study.²⁸

My name is Jyothi. I have been working at MEADOW for the last seven years. Since I have joined MEADOW my life has changed. My family not only acknowledges me as someone who earns money, but also has begun to respect me. My opinion is asked while making a purchase of a household article or selecting a school for my four year old daughter. At the village too people recognize me as Jyothi—"the working lady."

There have been a lot of learning opportunities. My knowledge in account keeping has considerably improved and I have begun to write minutes at my sangha. There's been a boost in my confidence level and today I go to the bank or the VAO office myself.

At MEADOW we handle the materials and maintain accounts all by ourselves. We are grateful to Titan for having trusted us with this responsibility and this encourages us to perform our duty well.

Some challenges and open questions

One of the challenges raised by the participants in the MEADOW project was the exclusive reliance on Titan as a source of business, which some thought might pose a threat for MEADOW's sustainability.²⁹ Another concern related to the expected flood of cheap watch bracelets onto the Indian watch market from other countries, which might negatively influence Titan's relationship with MEADOW.³⁰ Other open questions that have been identified include whether MEADOW could adapt to the changing requirements of infrastructure and technical skills; which of Titan's other business operations could potentially be outsourced to MEADOW; whether the initiative should be expanded to other areas of Titan's operations, and, if so, what Titan's commitment would be in terms of training, infrastructure development and so forth.³¹

Lessons learned and conclusion

Titan seems well aware of these challenges and open questions. Among other things, it has expanded the amount of work that it outsources to MEADOW. Moreover, some of the lessons that Titan has learned from its experience with the MEADOW project include:

1. Working with a well-regarded NGO partner brought knowledge and expertise that was otherwise not available to the company and resulted in an innovative approach.
2. Efforts to help build sustainable livelihoods can have a greater positive impact on the communities that the company wishes to assist than traditional philanthropy alone.
3. Tying philanthropy into the core business of the company can enhance the sustainability of the efforts. Success with the project described in this case study inspired the company to explore other opportunities to align philanthropy with their core business and to direct their philanthropic efforts at other projects that aim to help build sustainable livelihoods.
4. Nevertheless, not all of the companies' philanthropic activities can be aligned with the company's core business in this way. At Titan, the balance is approximately 50-50, namely, around half of its philanthropic activities have this strategic character. There are other priorities that the company wants to contribute to and other societal expectations that the company wants to meet.
5. Efforts to help build sustainable livelihoods are necessarily more involved and require a longer-term commitment than ad hoc donations. This time-frame and expectations of the

groups to be helped need to be factored into the company's strategy.

6. Most importantly, the task that was set out to be achieved—that of empowering underprivileged women by offering them gainful employment, supplementing their income and making them proud and confident—has been accomplished. With such an experience behind them, the young women of Krishnagiri are brimming with confidence and will be able to create many more MEADOWs in the future.³²

Endnotes

- 1 Titan website: <http://www.tata.com/titan/index.htm>; Chakravarti, Note 1.
- 2 <http://www.tata.com>.
- 3 http://www.tata.com/0_our_commitment/community_initiatives/overview.htm.
- 4 Business Line. *The Hindu*. 29 October 2004: "Tata Group Develops Human Development Index": "The Tata Group in association with the UNDP has developed an index for sustainable human development. The Chairman of the TCCI and Managing Director of Tata Industries, Kishore Chaukar, told newsmen on Friday that this index helps enhance the human achievement in a particular initiative. Mr. Chaukar said 10 major Tata Group companies have deployed this index. He said the TCCI has put together a structured programme to address the areas of social development. He said nearly 20 Tata Group companies have spent more than Rs 200 crore for various corporate social responsibility initiatives (CSR) during the last six to eight years. The Tata Council is a nodal agency for the Tata Group concerning all issues on CSR, social development and environmental activities, bio-diversity restoration and volunteering. There are around 10,400 volunteers across the Tata Group of companies involved with these activities. PricewaterhouseCoopers has already stated that the Tata index can be dovetailed into the sustainability reporting process adding value not just to Tata Group companies but also provide a model for inclusion in guidelines of the global reporting initiatives."
- 5 Chakravarti, Note 1.
- 6 Nandini Lakshman & Gouri Shukla, "How successful is Ratan Tata" by Rediff.com (26 July 2005).
- 7 S. Srinivasan, "Modelling' for business excellence" *The Hindu Business Line* (14 September 2002), describing the Tata Business Excellence Model.
- 8 Ibid.
- 9 S. Srinivasan, "Modelling' for business excellence" *The Hindu Business Line* (14 September 2002), describing the Tata Business Excellence Model; Tata website: http://www.tata.com/0_our_commitment/corporate_governance/code_of_conduct.htm.
- 10 The JRD Quality Value award was instituted in the memory of Jehangir Ratanji Dadabhai Tata, a former chairman of the Tata Group. This award is given annually to a Tata Group company which excels in quality management. See http://www.tata.com/0_our_commitment/corporate_governance/quality/jrdqv_award.htm
- 11 Interview of M.S. Banga, Chairman, Hindustan Lever Ltd., on IndianNGOs.com (May 31, 2005).
- 12 From the website of IndianNGOs.com, <http://www.indiangos.com/about.htm>: Vision for IndianNGOs.com: "Information & Knowledge Exchange" on Indian Social and Developmental Sector.
- 13 "On appreciation of the concept by Corporates visited," www.indiangos.com.
- 14 Titan Industries Letter of Offer for Equity Shareholders Only, 9 March 2006, at p.71-72: Major initiatives have been:
 - Providing employment opportunities to the differently abled: Titan provides employment to about 120 disabled persons in its plants in Hosur and Dehradun.
 - Providing educational assistance to the needy: The Titan Scholarship Programme awards over forty scholarships every year to the needy students of Dharmapuri as well as Krishnagiri district, to enable them to pursue academic and vocational disciplines of their choice.
 - Promoting the Empowerment of Women: In partnership with MYRADA, an NGO, we have organized rural women into self-help groups who generate income through subcontracting of services by the company. At present more than 200 women are employed in activities ranging from the laundering of uniforms to the braiding of chains and studded jewellery manufacture.
 - Assisting artisans in jewellery manufacturing: The Jewellery Division has started the concept of *karigar* parks where *karigars* are

- trained to provide an opportunity to become our vendors. For more information please refer to the subsection titled "Karigar Parks" on page 64 of the Letter of Offer.
- Supporting Education: The Titan school provides quality education to the students of the community up to Class VI. The school has recently applied for CBSE affiliation.
 - Partnering with non-governmental organizations (NGOs): We also partner with national NGOs like SOS Village, CRY, Concern India, Indian Cancer Society, Clarke School for the Deaf on an ongoing basis by supporting their programmes.
- 15 For example, directors' duties do not seem to be as narrowly focused on shareholders' interests as under US corporate law. See "Directors' Liability," by Soma Dhawal, LegalServiceIndia.com: "Accountability is an important element of Board effectiveness. There should be some mechanism for evaluating the performance of the directors. The extent of liability of a director would depend on the nature of his directorship. In applying the general equitable principles to company directors, four separate rules have emerged. They are that (1) directors must act in good faith in what they believe to be the in the best interest of the company; (2) they must not exercise powers conferred upon them for purposes different from those for which they are conferred; (3) they must not fetter their discretion as to how they shall act; and (4) without the informed consent of the company, they must not place themselves in a position in which their personal interests or duty to other persons are liable to conflict with the duties to the company."
- 16 Titan Industries Limited Chairman's Speech at the 21st Annual General Meeting on 31 August 2005.
- 17 "CII-UNDP Social Code for Business - fast forward on social responsibility," interview with Mr. Anant G. Nadkarni, General Manager, Tata Council for Community Initiatives, by IndianNGOs.com.
- 18 Ibid., The India Partnership Forum, Multi-stakeholder Dialogue for promoting Corporate Social Responsibility (CSR), <http://www.indiapartnershipforum.org/disclaimer.htm>, from the official website: "The Forum also seeks to promote and pilot new and innovative initiatives in corporate partnership for development. A multi-disciplinary Governing Board guides the Forum launched by the UNDP Administrator along with the President, CII in February 2001 at New Delhi. A key development accompanying the launch of the Forum was adoption of the Social Code for Business."
- 19 "Titan Industries - committed to sustainable development: business plan 2006-7," Titan Industries Ltd. deck presentation (Spring 2006).
- 20 III-The Titan School, a community school with 600 students fostering holistic development of mind, body and heart; IV-Titan Scholarship Scheme for the benefit of the residents of Dharmapuri District, one of the most disadvantaged districts of Tamil Nadu based on the poor socio-economic background and poor literacy rates (so far, 600 students have benefited from the program); V-The Titan Township at Hosur (designed a self-contained township with superior physical and social infrastructure for 500 families); VI-Employee Involvement In Community Development; and VII-Volunteering in our other locations (inculcating an attitude of giving back to the society); and VIII-Partnering with other organizations to improve the quality of life of children: Chakravarti, Note 1. Another initiative of note is Titan's development of karigar parks, providing local jewellery makers with training and employment as independent contractors for Titan. It is described as follows in Titan's recent debt issue prospectus (Titan Industries Letter of Offer for Equity Shareholders Only, 9 March 2006, at p.64): A typical jewellery industry usually consists of an owner, middlemen and a karigar (workman with jewellery experience). In order to eliminate middlemen and provide direct employment to karigars, karigar parks were set up at Hosur in 2001. The karigar parks have also helped reduce the cost of manufacturing. As they are akin to ancillary units, gold is under our surveillance and control. We train the owner and workforce of such karigar parks to follow the systems and procedures laid down by us to ensure quality products to customers. We also provide the raw materials and designs to the karigars. As the karigar park is located at Hosur we benefit from quick delivery, reduced inventory holding, quicker communication, flexibility to respond during exigency, elimination of logistics cost and quicker lead time. See also, "Tanishq plans pilot ancillary jewellery unit," Financial Express-6 June 2002. While this project has an interesting CSR aspect, it was also designed to meet urgent production needs without expensive physical infrastructure and intensive hiring.
- 21 Chakravarti, Note 1.
- 22 www.myrada.org. Myrada's website states that it is a "secular organisation established in 1968 to work with the government in resettling 15,000 Tibetan refugees in the state of Karnataka. It is one of the larger NGOs in India and works with government bodies (departments of the state and the central governments) to achieve a wider reach and to influence policy decisions. It supports a network of eight NGOs involved in forestry in Andhra Pradesh and is a member of various operational district-level networks in Karnataka. It is also represented on the FWWB Ahmedabad, Corporation Bank, National Wastelands Development Board, AME, GVT and on several other government committees at state and national levels. Registration: Society." Its focus is "to re-create a self-sustaining habitat that balances the legitimate needs of people with the availability of natural resources; promote strategies that help realise the full potential of women and children and influence public policies in favour of the poor."
- 23 Equivalent to CAD 72,700 (14 September 2006).
- 24 A study of the social impact of MEADOW on the women it employs was conducted by NK Pradeep, a postgraduate student in social work at Kristu Jayanthi College in Bangalore, during April and May of 2007. This study confirmed that 76% of the women interviewed stated that their economic status has improved since working with MEADOW, and 82% said that their savings had improved. "A Study On Impact Of Titan And Meadow's Partnership On Rural Women," NK Pradeep, Hosur, April-May, 2007.
- 25 G Kannabiran "Strategizing Corporate Social Responsibility at Titan-Dilemma of the CEO" in CV Baxi and A Pasad (eds) *Corporate Social Responsibility: Concepts and Cases-The Indian Experience*, 2005, Excel Books, p. 151.
- 26 Ibid. This was confirmed by the study conducted by Pradeep, above note 24. Of the women interviewed, 78% strongly agreed that the age at which they are expected to get married has risen since working for MEADOW, and 76% strongly agreed that due to MEADOW their status among their relatives had improved. The majority of women interviewed agreed that they are taking part in the process of decision making in their families.
- 27 Ibid.
- 28 Ibid., p. 152.
- 29 Ibid., p. 151. This was confirmed by the case study conducted by Pradeep, note 24. It found that all the women interviewed were purely dependent on Titan.
- 30 Ibid., p. 152.
- 31 Ibid.
- 32 Titan has been able to apply the knowledge gained through this kind of local initiative in its international skills learning project with disadvantaged South African women (G.R.N. Somshikar, "Tata Group Develops Human Development Index," *The Hindu Business Line*, 30 October 2004).

Ketchum and the *Rescue & Restore Victims of Human Trafficking* Programme

Lauren Isenman and John Doorley*

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Abstract

This case study illustrates how communication can be used to raise awareness of human rights issues and promote respect for human rights.

It focuses on Ketchum's support of the *Rescue & Restore Victims of Human Trafficking* campaign, and how the firm's internal ethics training programme and disclosure guidelines played a crucial role in the process of learning how to manage ethical and human rights issues. The case study also illustrates one

role the public relations industry can play in the promotion of human rights.

In October 2003, U.S. Department of Health and Human Services (HHS) hired Ketchum to develop a public awareness campaign on human trafficking to support the Trafficking Victims Protection Act (TVPA) of 2000. Human trafficking is defined in legal terms as the recruitment, transport or sale of people for the purpose of exploiting their labour.

Ketchum was charged with helping HHS achieve its goals of focusing the media on the grave human rights violation of human trafficking, developing resource materials and building community awareness and support for victims. HHS's overall goal was to increase the number of identified trafficking victims and provide the support required to help them regain their freedom and dignity, and live productive lives.

In developing the public awareness campaign, Ketchum was asked to:

1. Generate an open, honest and credible educational programme about the problems of human trafficking;
2. Increase the number of identified and assisted trafficking victims; and
3. Help citizens understand how they can assist victims in their communities.

Ketchum's approach focused on building:

1. A consistent, compelling campaign identity;
2. Open channels of communication with target markets and national media to educate intermediaries and the public about the scope of the U.S. human trafficking problem and services available to the victims; and
3. National and local partnerships to help reach intermediaries.¹

Ketchum achieved its goals, as well as its client's goals, through following the Ketchum ethical training programme, revising the Ketchum Disclosure Guidelines, and developing the Ketchum reporter guidelines. Furthermore, on 22 May 2006, HHS announced that 1,000 victims of human trafficking had been certified since the Trafficking Victims Protection Act (TVPA)² was signed into U.S. law in October 2000, and the number continues to increase each year.

Company profile

Ketchum was founded in 1923 by George Ketchum in Pittsburgh, Pa., U.S.A. In 1934, the company integrated public relations into its advertising business. Today it is headquartered in New York City with 23 offices and more than 45 affiliates around the world. Ketchum was acquired by Omnicom Group (NYSE: OMC) in 1996, enabling the company to grow geographically as well as to expand its services and expertise.

* Lauren Cecily Isenman works at Steel Partners, Ltd. in New York City. She has a Master of Science in Public Relations and Corporate Communications from New York University. Ms. Isenman is grateful for the help and support she received from Ketchum, her academic advisors and NYU, Warren Lichtenstein of Steel Partners and, most of all, her family. John Doorley is the Academic Director and Clinical Assistant Professor of the Master of Science in Public Relations and Corporate Communications programme at New York University. The information for this case study was obtained from a variety of sources. A significant amount of background information as well as performance measurements were provided by Ketchum. John Doorley and Helio Fred Garcia's textbook, *Reputation Management, the Key to Successful Public Relations and Corporate Communication*, was also used extensively as a resource for this case study. Additionally, the authors of this paper were provided access to a number of other documents and senior management officers at Ketchum in New York, Washington, D.C., and London. The authors would like to especially thank Vice President Fran Bernhards for her passion and guidance as well as the entire *Rescue & Restore Victims of Human Trafficking* account team at Ketchum: Chris Shreeve, Kimberly Derwinski, Dianna Chapman, Martha Pratt, Elaine Myada, Pheniece Jones and Caton Lovett. Peer review of this case study was provided by Helio Fred Garcia, President of Logos Consulting Group and the Executive Director of the Logos Institute for Crisis Management and Executive Leadership. He is an adjunct professor in the Master of Science in Public Relations and Corporate Communication programme at New York University. No funding was accepted from Ketchum for the preparation of this case study. The complete version of this case study is available on the UN Global Compact website at www.unglobalcompact.org.

With its five global practice areas, Brand Marketing, Corporate Communication, Healthcare, Food & Nutrition and Technology, Ketchum offers clients a tremendous breadth and depth of marketing and corporate communication expertise.

Ketchum was the first public relations firm to join the United Nations Global Compact and has been a participant since 2001. The agency has embraced the principles of the Compact through the company's own active participation as well as through the promotion of the international initiatives to its clients and other prospective members.

As a global communication counseling organization, Ketchum's corporate citizenship profile is quite different from those of other companies. In addition to standard labour rights and human rights such as anti-harassment and anti-discrimination policies, an equal employment opportunity policy, and a workplace violence policy, Ketchum has adopted two additional policies, both mentioned below:

- **Non-Disclosure, Non-Solicitation and Code of Business Ethics Agreement:** At the direction of Ketchum Chief Executive Officer Raymond Kotcher, this policy document is formally acknowledged by each employee. It provides standards for virtually all operations of the company, including truth and accuracy in communication; record-keeping; gifts and entertainment; union agreements; conflicts of interest; and privacy.
- **Anti-Corruption/Transparency:** Ketchum is acutely aware of its responsibility as an active participant in the free flow of information and ideas. The integrity of independent media is a cornerstone of this vital process. A national debate on the public relations-media interface convinced Ketchum to restudy its policies in this area. As a result, Ketchum issued an updated policy document, "Ketchum Disclosure Guidelines," to better ensure that all information it distributes will identify the client or other entities as sources of the information.

Public relations industry

Corporate and organizational communications: A subset of public relations. The centralized management of communication on behalf of the organization; the function is a critical contributor to an organization's reputation—and thereby its competitiveness, productivity, and financial success.

—John Doorley and Helio Fred Garcia

Professional communicators in public relations agencies and other organizations have greater power today than ever before.³ Communicators are thus in a unique position to use their power to meet new standards of corporate responsibility and human rights. Through forming standards and guidelines to determine which individuals, organizations and governments, as well as which issues, they are willing to represent, public relations firms have the unique opportunity to enhance their contribution to society. When evaluating potential clients, financial considerations should form only part of the calculations, the client company's business area and standard practices should also be taken into consideration.

Corporate social responsibility (CSR) programmes and initiatives should be viewed as opportunities for public relations firms, along with their clients, to influence and contribute to an open global discussion on corporate responsibility and human rights. By partnering with individuals, organizations and communities around the world, public relations organizations can play an active role in promoting positive human rights policies and facilitating the development of effective human rights programmes. Individual agencies can support positive human rights practices and programmes through drawing attention to key issues and helping to form a consensus of best human rights practices for corporations, governments and the general public.

Human trafficking in the United States

Human trafficking can be characterized as modern-day slavery. HHS estimates that 14,500–17,500 people are trafficked into the United States annually.⁴ Today, the U.S. government does not know how many human trafficking victims are within its borders. However, it does know that victims can be found in nearly all parts of the country. Worldwide, human trafficking is tied with the illegal arms trade as the second largest growing criminal industry behind drug dealing. Traffickers beat, emotionally torture and blackmail victims to entrap them into prostitution, pornography, migrant farm labour, domestic servitude as nannies and maids, hotel and restaurant work, factory sweatshop work, and other types of forced labour. More than half of trafficking victims are children, and approximately 80 percent of victims trafficked across international borders are female. The majority of victims are exploited for the sex industry.

In 2004, HHS launched the *Rescue & Restore Victims of Human Trafficking* campaign to combat this crippling human rights violation. In the fight against human trafficking, HHS works closely with other federal, state and local government agencies, including the U.S. Department of Justice, Homeland Security, the State Department and the Department of Labor to specifically address the gap in public awareness and strengthen media attention.

Ketchum's extensive literature reviews and interviews with experts in the fields of health care, social services and law enforcement helped identify the core of the problem as well as develop an understanding of the circumstances under which victims are exploited while detailing the benefits and services available to them. A media analysis established that coverage on trafficking was focused on the international and prosecutorial sides of situations, not on domestic situations or on victims. Additionally, interviews with former victims revealed that direct outreach would be difficult because victims have limited access to the outside world.

The *Rescue & Restore Victims of Human Trafficking* campaign takes a victim-

centered approach to human trafficking. Through a nationwide network of volunteer and funded social service providers, HHS focuses on rescuing victims with the help of law enforcement agencies, and then helping them recover and rebuild their lives. Trafficking victims are eligible for benefits and services including shelter, food, medical care, counseling, job training and education. The campaign theme, “Look Beneath the Surface,” reinforces the message that to recognize potential victims, intermediaries must pay careful attention when interacting with people in their communities.

As a result of its findings, the team at Ketchum designed a campaign that would bring media attention to the human trafficking crisis within the United States and establish a programme that assisted in reaching out to intermediaries who may otherwise unknowingly encounter victims.

Ethical decision making

Disclosure guidelines and ethics training program

In a continually changing communication environment, the behaviours that communication firms engage in affect the credibility of their clients as well as their own reputation. With a skeptical public—which often views press releases and video news releases as misleading at best—credibility is essential. Thus, it is crucial for a public relations firm to accurately depict its clients to the public, disclosing all conflicts of interest and providing truthful and open communication in a fashion that satisfies vital ethical obligations.

Ketchum realized the negative implications for clients, practitioners and the public of an unethical or *laissez-faire* approach to business ethics early in its operations. In 2005, the agency offered to share its formal ethics training programme and implemented revised disclosure guidelines with the Council on Public Relations Firms, which represents more than 100 public

relations firms in the United States, to educate agencies throughout the industry. Ketchum’s revised disclosure guidelines require agencies to be fully transparent about whom they represent. The reason this is so important is that by providing a context and framing the conversations, it is much less likely that a conflict of interest will arise. Additionally, it ensures the public and media understand the context of the conversation.⁵

Together, the Council of Public Relations Firms and Ketchum designed workshops for PR professionals, holding sessions in New York, Chicago and Washington, D.C. The course was entitled “Ethical Decision-Making: How to Help Your Firm Navigate the Changing Landscape.” More than 35 public relations agencies from around the country participated, in addition to Ketchum employees.

For the *Rescue & Restore* programme, the Ketchum team also created reporter guidelines for its employees and the media to use when working with and interviewing human trafficking victims. Ketchum’s Vice President, Fran Bernhards, stresses a caveat reminiscent of the physician’s oath to “first do no harm.” She says: “We developed the *Rescue & Restore* campaign to identify, rescue and restore human trafficking victims. We certainly do not want to do anything that could harm victims or exploit them. We only set up an interview with a victim after we have vetted the interview with the victim and their caseworker (if a caseworker is still involved with the victim) and made sure that the victim is comfortable doing the interview.”

So far, the firm has not encountered any problems with reporters, editors or producers regarding the guidelines. This is particularly vital in cases where the media needs to keep identities of victims hidden because the victim is a minor or because the victim could be in danger should his or her identity be revealed. Ketchum continues to use the ethics and reporter guidelines along with the training programme as tools to manage clients’ ethical and human rights issues, leading to actions that

help promote open, accessible and honest communication.

Ketchum revised its disclosure guidelines and an ethics training programme in 2005 to help not only the company and its clients but other public relations organizations as well.⁶ The guidelines and programme help employees and clients understand the parameters of ethical behavior and show how to act ethically while supporting underlying government, business or operational goals. The development of the programme reflects the industry’s responsibility to provide strategic and ethical counsel to clients. The Ketchum training programme is considered to be a minimum standard for ethical behavior for the public relations industry and was used by the Council of Public Relations Firms to educate other agencies.

The disclosure guidelines, necessary to meet the ever-increasing demands on publicly traded companies for greater transparency and financial responsibility, can also help achieve greater transparency in the business of communicating social responsibility, as this case demonstrates. In recent years, Ketchum has also demonstrated its commitment to global and local *pro bono* assignments.

Project objectives

Prior to its involvement with the human trafficking project, Ketchum had already worked for HHS on a number of Medicare-related programmes. The opportunity to help raise awareness of human trafficking in the United States was a unique opportunity for the firm, as well as for the individuals on the team. Ketchum approached the development process with three objectives:

1. Increase the number of trafficking victims identified and assisted.
2. Bring media attention to the problem of trafficking in the U.S. with the focus on the victims of trafficking.
3. Raise awareness among intermediaries who can identify trafficking victims.

The *Rescue & Restore Victims of Human Trafficking* campaign takes a victim-centered approach to human trafficking. Through a nationwide network of volunteer and funded social service providers, HHS focuses on rescuing victims with the help of law enforcement agencies, and then helping them recover and rebuild their lives. Trafficking victims are eligible for benefits and services including shelter, food, medical care, counseling, job training and education.

The campaign theme, “Look Beneath the Surface,” reinforces the message that to recognize potential victims, intermediaries must pay careful attention when interacting with people in their communities.

Challenges

Ketchum research revealed that the campaign faced two considerable challenges:

1. Human trafficking victims’ inability to directly reach out for assistance and the need to protect some victims’ identities in the media.
2. When human trafficking was covered by the media, the focus was routinely on the international and prosecutorial side of the situation and not on the social service needs and recovery of the victim.

Based on its research, the agency and HHS sought to identify victims for media and speaking opportunities while keeping them safe and on track with their recovery process.

In general, there is a difference between a company’s obligation to disclose certain kinds of information in a certain manner and the right of the public and press to know whatever they want.⁷ Specifically, regarding human rights issues and victims, public relations agencies have a profound responsibility to protect the security of their programmes as well as their employees and spokespeople. It is also extremely important to protect the identities of the human trafficking victims for their safety and help them continue to recover from their ordeal so they can lead productive lives. As a result, Ketchum took the strategic approach to proactively

communicate key messages and talking points for HHS officials and third-party spokespeople as well as tailoring media outreach and press conference remarks while educating individuals about the specialized needs of victims, including the importance of protecting certain victims’ privacy. Informational materials were provided to media and intermediaries to assist them in gaining an understanding of human trafficking as a domestic problem. Materials included fact sheets, brochures, posters, toolkits and a training video.

Another central component of the *Rescue & Restore* campaign is the HHS-funded National Human Trafficking Resource Center, which helps connect victims to local organizations available to assist them in the community. The *Rescue & Restore* website serves as a centralized source of all materials and resources related to the issue of human trafficking, including downloadable materials, and information on how to become a coalition partner.

Ketchum launched a structured media campaign in 17 target markets so far to coincide with the creation of formal *Rescue & Restore* coalitions in key areas of the country where human trafficking is believed to be prevalent, including Phoenix, Philadelphia, Atlanta, Tampa, Miami, Newark, San Francisco, Milwaukee, Seattle, Portland, Las Vegas, Minneapolis/St. Paul, St. Louis, Chicago, Houston, Los Angeles and Long Island. The domestic and victim-centered story was pitched to national, regional, local and trade media outlets in all of the markets noted above to promote the issue and drive attention to the subject matter. The firm also developed and distributed public service announcements on human trafficking in conjunction with the United Nations and The Ricky Martin Foundation. Throughout the establishment of the programme, the revised Ketchum disclosure guidelines, ethics programme and reporter guidelines permeated every aspect of the campaign, and helped to guide Ketchum when establishing and achieving the objectives stated above.

Results

Since the launch of the campaign in April 2004, the programme has experienced tremendous success and acclaim. Ketchum reports that the hotline has received more than 5,000 calls from intermediaries, possible victims and the general public. According to its evaluation, more than 20 percent of these calls have resulted in referrals to local HHS grantees that provide services to trafficking victims. Additionally, more than 110 cases involving potential victims have surfaced through tips to the hotline, and HHS has certified more than 1,000 trafficking victims, with many more in the certification pipeline.

The *Rescue & Restore* programme has also been recognized as a groundbreaking campaign in the public relations industry and has received more than 10 industry awards including the coveted Silver Anvil Award from the Public Relations Society of America. The award symbolizes the forging of public opinion and is annually awarded to organizations that have successfully addressed a contemporary issue with exemplary professional skill, creativity and resourcefulness. Silver Anvil Awards recognize complete programmes incorporating sound research, planning, execution and evaluation. The programmes must meet the highest standards of performance in the profession.⁸

Ketchum was able to alter the focus of the media’s coverage of human trafficking from solely an international problem to a domestic problem, with a dramatic increase in coverage focusing on victim assistance. According to Ketchum, the media coverage positioned HHS as the lead in this multi-agency campaign collaboration and generated approximately 200 million media impressions throughout the country. All of these successes were achieved while maintaining victim security and comfort with the campaign. Ketchum has significantly raised expectations for media access and how successful a human rights programme can be while guarding victim recovery and safety.

Since the *Rescue & Restore* programme’s inception, Ketchum has offered its services and unconditional support. There

is the hope that Ketchum's work with HHS and human trafficking victims within the United States will have a long-term impact not only on this issue but on other human rights issues around the world. Going forward, with cooperation from clients, public relations companies will hopefully be able to provide a service and have a positive effect on society.

Ketchum and HHS findings suggest:

1. Raised awareness among intermediaries who can identify trafficking victims through the establishment of local coalitions comprising more than 800 organizations;
2. A secured national partnership with the National Center for Missing & Exploited Children as well as partnerships with some 75 additional national organizations;
3. Workshops and exhibits at national and regional conferences; and
4. Establishment of the *Rescue & Restore* website – www.acf.hhs.gov/trafficking and the National Human Trafficking Resource Center hotline.

Ketchum's analysis indicates that a public relations campaign can have the power to change perceptions as well as shape future discussions about critical human rights issues such as human trafficking.

Issues for further consideration

One of the primary ways HHS will continue to change the American public's perception of human trafficking is through open, honest, and ethical communication. Because public relations involves identifying audiences and molding messages, it is perfectly positioned to help facilitate communication characterized by accuracy, transparency and community support. Over the long term, it is expected that increased educational programmes and domestic support for human rights victims will

lead to improved government policies, expanded corporate responsibility and an increase in community involvement.

Ketchum accepted the offer to work with HHS with the understanding that the Government agency would adhere to and support Ketchum's disclosure guidelines, ethical standards and reporter guidelines created to support and protect victims. Not only has HHS embraced the guidelines and standards, but the media have shown a continued respect for their importance. According to Account Team Member Frances Bernhards, reporter guidelines continue to be important for setting the ground rules for interviews with victims. "They also help sensitize reporters that victims have undergone horrendous exploitation at the hands of their traffickers, and therefore, must be treated with the highest respect and delicacy so their recovery process is not harmed as a result of the interview."

Ketchum's support of the campaign demonstrates the agency's leadership in promoting a socially and ethically responsible agenda. Agreeing to work with HHS serves as reputation branding for the agency and continues its commitment to promote transparent and honest communication while encouraging corporate social responsibility. Accepting the challenge also embodies the organization's mission statement and internal values – to encourage and build trust among all publics. Although Ketchum as a business was not directly challenged, the process of developing an effective public relations campaign can be viewed as a test of the way in which exceptional communication programmes can impact and support the Global Compact principles.

The results of Ketchum's work on behalf of the *Rescue & Restore Victims of Human Trafficking* campaign highlight the positive connection between public relations and the promotion of human rights. Ketchum reports that its efforts have been positively influenced by the company's disclosure guidelines, ethics training programme, and the reporter

guidelines developed specifically for the campaign. The company's internal programmes and guidelines can be considered to work in tandem with the Global Compact principles.

With the assistance of its disclosure guidelines, ethics training programme, and reporter guidelines, Ketchum continues to support the campaign to help victims of human trafficking and others, demonstrating the importance and value of the intersection of communication and human rights. The guidelines followed by Ketchum staff and the resulting campaign help display the agency's willingness to champion the Compact guidelines and act as a catalyst for change in the global community.

Public relations firms are guided by their clients' interests. This can present a challenge when the firm is not emotionally engaged with the topic at hand. On the other hand, when stated values align it is likely to lead to more productive relationships. This is because, as illustrated in this paper, the client and agency's values are congruent and therefore not at odds. Going forward, Ketchum's innovative disclosure guidelines and ethics programme should continue to be used as an example for the industry, illustrating how companies can contribute to developing communities and societies facing human rights challenges.

To directly improve the campaign, Ketchum is developing materials that feature individuals from diverse cultures. The agency is also working to develop reliable long-term metrics to understand the impact of the public relations campaign on local communities and victims.

8. Conclusion

This case study has sought to illustrate the relationship between public relations and human rights. In this regard, more work needs to be done in the field to collect data, to create metrics for efficacy, and to accurately measure both the administrative process and the effectiveness of programmes, such as HHS's Human Trafficking Campaign.

The public relations industry can make an important contribution to human rights initiatives. Specifically, it can use its communications expertise as an effective vehicle to promote targeted public service messages, programmes and community action. The industry is able to, and should be responsible for, developing programmes addressing contemporary issues and demonstrating how principled communication is an essential component of corporate social responsibility, which encompasses corporate efforts to meet the financial and non-financial expectations of various stakeholder groups. Corporate responsibility goes beyond philanthropy and legal compliance.⁹ Ketchum CEO Ray Kotcher simply says, “What it all means is that the old aphorism that an organization can do well by doing good still applies.”

Ketchum and the industry as a whole have recognized the importance of reputation management and that client campaigns can be enhanced with the aid of open, honest and accessible communication. Ketchum’s ethics programme and revised disclosure guidelines are a concrete example of this commitment. Having these guidelines equips the industry with the credibility to represent clients whose interests are related to social issues such as human trafficking. Additionally, in the HHS case, Ketchum further refined its principles to address the specific concerns of human trafficking victims.

It is imperative that the industry work to empower communities around the world—including within the United States—to effectively communicate to individuals, organizations and the media the objective of protecting human rights and affirming the industry’s full support of human rights. Going forward, public relations companies should continue to provide socially responsible services and that have a positive effect on society and the promotion of human rights.

ANNEX 1: REVISED KETCHUM DISCLOSURE GUIDELINES (10)

1. When pitching the media, always identify the client you represent.
2. Be forthright with information about our clients’ sponsorship of information, spokespeople or events.
3. In all written materials, clearly articulate the client, product or service being represented.
4. In booking an interview, conduct a straightforward discussion of messages the spokesperson wants to communicate. This helps ensure that everyone’s expectations are clear (the producer, the spokesperson and the client).
5. In preparing spokespeople for media interviews, create messages and provide training that allows them to be transparent and to portray accurately who they represent.
6. In video news releases (VNRs), b-roll and audio news releases (ANRs), disclose fully to TV or radio stations that produced and paid for it. Written identification of sponsorship should be placed on packaging and on slates throughout the VNR.
7. When producing a VNR, the narrator will not use the word “reporting” or refer to themselves as a reporter.
8. Websites should disclose clearly their ownership, private or public, name their parent company and/or sponsors, and reveal any relevant business relationships, including sponsored links to other sites.
9. When blogging, use your real name, be clear who you are, and identify for whom you work.
10. We encourage word-of-mouth advocates to disclose their relationship with marketers in their communications with other consumers. We will not blur identification in a manner that might confuse or mislead consumers as to the true identity of the individual with whom they are communicating, or instruct or imply that others should do so.

ANNEX 2: REPORTER GUIDELINES FOR INTERVIEWING VICTIMS OF HUMAN TRAFFICKING (8)

When conducting interviews with victims of human trafficking—as with any victim of a violent crime—it is important to empathize with what they have gone through and to understand their mindset, which may be molded by coercion, violence and intense fear at the hands of their traffickers.

1. Human trafficking victims were often lured to the United States with promises of a better life, marriage and/or a good job so they could provide for their families back home. These promises and dreams quickly turned to nightmares as the victims found themselves trapped in the sex industry, the service industry, in sweatshops or in agricultural fields—living daily with inhumane treatment, physical and mental abuse, and threats to themselves or their families back home.
2. Trafficking victims have been through brutal physical and psychological trauma, often suffering long-term or permanent damage to both their physical and mental wellbeing. Their recovery process takes a long time, and many victims find it extremely difficult and troubling to talk about their ordeal. Because telling their story forces them to relive their nightmare, it is extremely difficult to find trafficking victims who have progressed sufficiently in their recovery process that they are willing to talk with reporters—even if they understand that by telling their story, they can help other victims of trafficking.
3. Traffickers are ruthless criminals who subject their victims to repeated violence and threats against themselves and their family. Therefore, trafficking victims often fear reprisals against themselves or their family back home should they talk with reporters. And even if their traffickers are behind bars,

trafficking networks still exist and the victim's safety or the safety of their family could still be in jeopardy. Therefore, you often will be asked to not reveal the victim's identity (name, likeness or voice) in your story.

4. Trafficking victims fear authority figures and are only beginning to trust others. The individual they trust the most is their social worker, who has been working diligently with them in their recovery process. Therefore, the social worker should be consulted on how to best approach the interview with the trafficking victim. We recommend an initial interview with the social worker to receive a general overview of the victim's case. During this initial interview, the social worker will want to discuss the types of questions you may want to ask the victim—and most importantly—identify any overly sensitive questions that could hurt the victim's recovery process. It is vital that the social worker is then present for the actual interview with the victim to provide emotional support for the victim and to be alert to situations that may be harmful.
5. Many trafficking victims do not speak English and do not understand American culture or how the American media operate. Therefore, it is vital even for victims with some English skills to have a skilled translator available during the interview—ideally, a translator who both speaks the victim's language and understands the victim's culture. In many cases, the best translator will be the victim's social worker, who has achieved a measure of trust with the trafficking victim and can screen out and/or soften potentially sensitive question areas. If an

independent translator is used, the social worker should still be present for the interview.

6. Interviews can be intimidating for even media-savvy individuals. However, interviews with an unknown reporter can be utterly daunting and frightening for a trafficking victim. Be sensitive to their fear of authority figures—and yes, you will be seen as an authority figure—and reassure victims that you have their best interests in mind and that you are conducting the interview to let the public understand the scope of the human trafficking problem, thereby helping other victims escape this devastating human rights violation.
7. Avoid negatively worded or accusatory questions that will likely intimidate, frighten and cause the victim to shut down. Sensitivity is especially important when talking with sex trafficking victims, who may be extremely hesitant and ashamed to discuss their situation and what they were forced to do.
8. Sometimes trafficking victims feel that it was their fault they became enslaved. As a result, it is important to not reinforce this guilt by insinuating that they should have known better or somehow avoided becoming a trafficking victim. Above all, understand that this individual is a victim, not a criminal, and should be treated with the respect and understanding they deserve. Trafficking victims should not be made to feel they have done anything wrong.

providers, social services organizations, ethnic communities, and law enforcement.

- 2 The Trafficking Victims Protection Act of 2000 (TVPA), passed on 28 October 2000, marks the most comprehensive US law to address the various aspects of trafficking in persons both internationally and domestically. The TVPA aims to combat trafficking by establishing measures to prevent trafficking, protect its victims, and prosecute those accountable for trafficking. http://www.theirc.org/media/www/trafficking_victims_protection_act_of_2000.html.
- 3 J. Doorley and H.F. Garcia, *Reputation Management, the Key to Successful Public Relations and Corporate Communication*, (New York: Routledge, Taylor & Francis Group, 2007).
- 4 This estimate does not include U.S. citizens who are trafficked within the United States or exported.
- 5 One current example of the failure to fully disclose the underlying client is Ask.com, where the campaign did not disclose that the guerilla campaign to promote the site was actually hired by the public relations firm to advertise the search engine.
- 6 The Public Relations Council, which represents 100 firms in the United States alone, contributed to the writing of the guidelines.
- 7 J. Doorley and H.F. Garcia, *Reputation Management, the Key to Successful Public Relations and Corporate Communication*, (New York: Routledge, Taylor & Francis Group, 2007).
- 8 <http://www.prsa.org/awards/> "The Silver Anvil, symbolizing the forging of public opinion, is annually awarded to organizations that have successfully addressed a contemporary issue with exemplary professional skill, creativity and resourcefulness. In the over 50 years that these citations have been made, more than 1,000 organizations have been awarded Silver Anvils for excellence in public relations."
- 9 J. Doorley and H.F. Garcia, *Reputation Management, The Key To Successful Public Relations and Corporate Communication*, (New York: Routledge, Taylor & Francis Group, 2007) Pg. 357.

Endnotes

- 1 Intermediaries are defined by Ketchum as groups on the frontlines of reaching victims, e.g., faith-based organizations, health care

Newmont Mining Corporation: Embedding human rights through the Five Star Integrated Management System

Diego Quiroz-Onate*

Human rights issues addressed

- Complicity
- Human rights and the environment
- Resettlement and compensation of affected communities
- Security and conflict
- Indigenous people
- Social investment and community development
- Sphere of influence

Human rights management practices discussed

- Policy
- Measuring impact and auditing
- Reporting

Human rights standards, tools and initiatives mentioned (beyond the UN Global Compact)

- Voluntary Principles on Security and Human Rights
- Universal Declaration of Human Rights
- 10 Principles of Sustainable Development (ICMM)
- Extractive Industries Transparency Initiative
- Partnering Against Corruption Initiative
- Global Sullivan Principles
- Council for Responsible Jewellery Practices
- Fund for Peace Human Rights & Business Roundtable
- Global Reporting Initiative
- ISO 14001
- AA1000
- OHSAS18001

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Newmont's social and environmental commitment

Newmont's Five Star Integrated Management System

Five Star Community & External Relations Assessment: Yanacocha Operations

Conclusion

Abstract

This case study investigates how an

extractive company develops and implements a human rights policy within its everyday business operations.

The case study highlights the strengths and weaknesses of Newmont Mining Corporation's Five Star Integrated Management System in the context of its operations at the Yanacocha mine in Peru. The Five Star Programme allows the company to monitor and review compliance with

its corporate social responsibility policies on an annual basis. This case study focuses on the Community and External Relations Standards (CER Standards) of the Management System, as these focus primarily on human rights and aim to implement Principles 1 and 2 of the UN Global Compact. The case study includes a review of the findings of an external audit of the company's activities in Yanacocha. The study concludes that while Newmont has a strong conceptual commitment, in practice there are limitations that must be acknowledged.

Company profile

Newmont Mining Corporation is a public company, founded in 1921 and headquartered in Denver, Colorado, that

* Diego Quiroz-Onate is a Lecturer in the Department of Law at Aberdeen Business School in the United Kingdom, where he teaches Public International Law, Law of Business Organizations and Delict. He is also teaching a course in Human Rights and Development for the M.A. Programme in Peace Development Studies at The Universitat Jaume I in Spain. Currently he is writing his PhD dissertation on the Evaluation of Corporate Social Responsibility via International Standards. Diego has also been involved as a researcher for the United Nations Secretary-General's Special Representative on Business and Human Rights. Peer review of this case study was provided by Dr. Olga Martin Ortega of the Centre on Human Rights in Conflict, University of East London, United Kingdom. The data presented is mostly from non-public documents provided to the author by Newmont in conjunction with numerous interviews with management at the company. No funding was accepted from Newmont for the preparation of this case study. The author would like to thank Helen McDonald and Abhishek Agarwal for their comments. The author would also like to thank Mhairi Aitken for her editorial assistance. The complete version of the case study, including additional references and charts, is available on the UN Global Compact website at www.unglobalcompact.org.

operates in copper, oil and gas and gold mining. It is the world's third largest copper producer, with interests in eight global copper operations. Newmont's oil interests include more than 70 blocks in the Louisiana Gulf area and oil and gas production in the North Sea. In February 2002, Newmont completed the acquisition of Normandy Mining Limited and Franco-Nevada Mining Corporation Limited to become the world's second largest gold producer.

For the 2005 financial year, the company had revenues of approximately US\$4,406 million and reported record industry gold reserves of 93.2 million equity ounces. As of December 2005, Newmont employed 33,794 people, the majority working at mine sites in the United States, Australia, Peru, Indonesia, Canada, Uzbekistan, Bolivia, New Zealand and Mexico.¹ Newmont's Annual Reports as well as its Corporate Sustainability Reports are available on the company's website.

Introduction

Mining is carried out in almost all imaginable locations, ranging from tropical jungles to the high Arctic, from 4,000 meters above sea level to circa 4,000 meters below surface. It is a high risk-reward industry, requiring large capital expenditure and sunk costs. The numerous risks range from operational-management to political and legal. For example, extractive companies often conduct operations in environments where security is an important concern or where armed attacks are routine.

Expansion in the mining industry has increased markedly since 1989 when over 75 countries, many categorized as developing, liberalized their investment regimes. Economic and political reforms have unlocked new opportunities for the mining industry in previously blocked areas. As a result, investment in the mining industry constitutes a significant portion of the total increase in direct foreign investment in developing countries.² And, in 2004,

almost two thirds of mining industry foreign direct investment occurred in South America, Africa and Asia, where most developing countries are located.³

In a number of these countries, environmental and labour regulations, as well as social policies, are weakly developed or enforced. This constitutes a crucial difference when compared to the history of mining in the industrialized world. The lack of effective democratic institutions and relevant regulations in these countries can increase social conflict, expand corruption and displace investments in human capital.⁴ On the other hand, in these circumstances there is a possibility that companies could develop their own models of environmental and social responsibility that go beyond narrowly defined legal obligations.⁵

Industry performance in regards to environmental and social responsibility varies from responsible operations to those that exhibit no concern.⁶ In some developing countries, natural resource exports represent up to 85% of GDP⁷ making the extractive industry a significant actor in terms of economic growth for these nations. Mining companies have been linked publicly to interference in sovereign affairs, redistribution of wealth, poor labour conditions, corruption, transfer pricing, environmental degradation and disregards of human rights.⁸

Regulatory pressures and public interest concerns regarding environmental and social issues have arisen over the last 25 years. The industry needs to define robust strategies both to achieve its financial goals and to adjust to its environmental and social responsibilities. Corporate social responsibility provides an opportunity for mining companies to respond to public concerns and to leverage technological and organizational innovation for their competitive advantage. Wayne Murdy, former Chairman and CEO of Newmont, said: "[S]ecure access to natural resources depends on environmentally and socially sustainable business

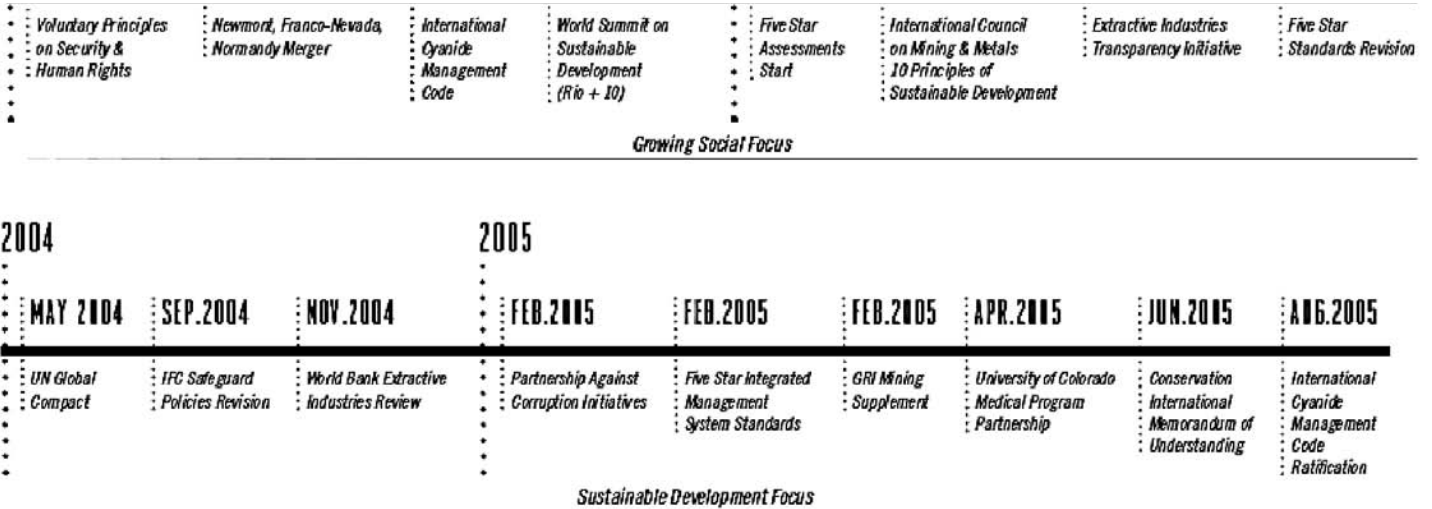
practices... Enhancing the impact of mining on development requires joint action and new forms of partnership between governments, companies, civil society and international development agencies." Mining, like other extractive industries, needs the cooperation of other businesses as well as governmental and civic participation to transform corporate social responsibility ideals into actions that promote sustainable development.⁹ Here the importance of international initiatives such as the UN Global Compact becomes clear.

This case study illustrates how one of the world's largest mining corporations implements the United Nations Global Compact's human rights principles and discusses whether the company's operations are performed in a manner that respects, protects and supports human rights. The case study concentrates on Principles 1 and 2 of the Global Compact.¹⁰ These two broad principles embody almost all the specific rights and can apply to all businesses, regardless of size, industry, location or level of experience with corporate citizenship. The Community and External Relations Standards (CER Standards) of the company's "Five Star Integrated Management System" (Five Star Programme) serve as a framework for this analysis and the data presented is mostly from Newmont's Yanacocha Operations in Peru in 2006.

The social and environmental commitment

A corporate responsibility approach based solely on compliance with national laws does not fit Newmont's needs. Mining operations cross the boundaries of national laws and business, involving multifarious activities and disciplines, such as concession, exploration, operation, international trade, closure, labour rights, human rights and the environment. Newmont intends to be one of the world's most trusted, respected and valued natural resource companies, and the leader in the gold industry.¹¹ To achieve this

Source: Newmont Corporate Sustainability Report Now & Beyond, 2005



goal, since 2002, the company has publicly devoted itself to a number of initiatives regarding Corporate Social Responsibility (CSR) and sustainability as shown below in the timeline of Newmont’s Environmental and Social Evolution.

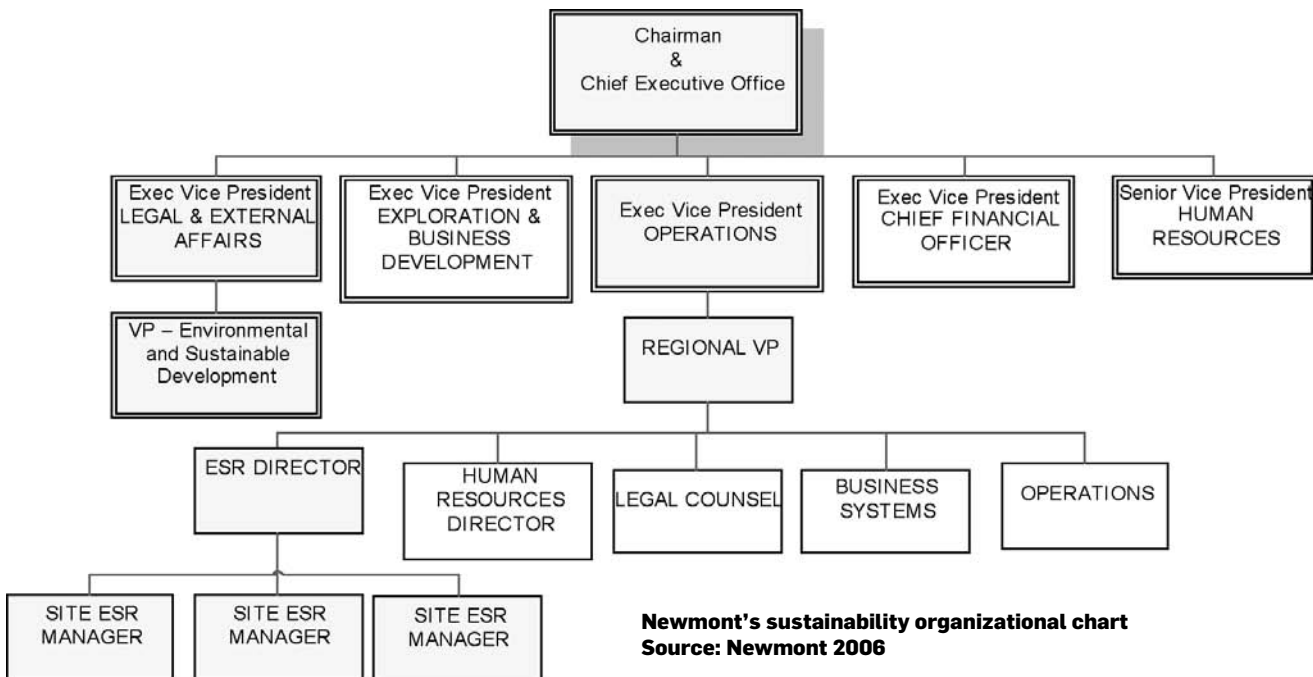
Newmont’s environmental and social evolution

Newmont has developed an integrated system to identify and manage risks and to provide accurate information to support effective decision making, participa-

tion and training. This system demonstrates an understanding of the demands and opportunities in human rights compliance, and, most importantly, since 2002, the company has increased its commitment and implementation to responsible and sustainable business practices, as demonstrated by the accompanying timeline.

Newmont has formally endorsed numerous voluntary human rights initiatives, including the Global Compact in 2004. The company subsequently

publicly pledged to operate its business in ways that are consistent with, and promote the principles articulated in, the Universal Declaration of Human Rights.¹² The company’s Director of Community Relations and Social Development explained that “[T]he Five Star Programme and assessment process had their genesis in a conscious commitment to understanding and desire to develop a set of standards that addressed a company’s global human rights risks.”¹³



Newmont’s sustainability organizational chart
Source: Newmont 2006

Values

Newmont's corporate values are to reward entrepreneurial spirit, but an essential part of them is also dedicated to leadership in safety, stewardship of the environment and social responsibility; as the company puts it "to act with integrity, trust and respect" in everyday operations.¹⁴ In this respect, the company has adopted a social and environmental policy and has enacted a Code of Business Ethics and Conduct (Code). The responsibility policy is expressed through a series of environmental and social commitments such as sustainable development, protection of human life, health and the environment, as well as adding value to the communities in which they operate. The company intends to use the Code as an effective programme to prevent and detect violations of law as well as an educational tool for staff members.

The Code applies to all of Newmont Mining Corporation's subsidiaries. All Newmont's employees must sign an annual declaration that they have read and understood the Code. It is worth observing that the final part of the Code contains a waiver procedure.¹⁵ Contractors are not covered by the code, although they are committed to certain ethical standards through the terms of their contracts.

For the most part, Newmont's adherence to sustainable business practices is transformed to operational reality via its commitment to different national and international initiatives.

The company has also adopted and participates in a number of international sustainable development schemes such as The Extractive Industries Transparency Initiative (EITI); The "Publish What You Pay" campaign; The World Economic Forum's Partnering against Corruption Initiative (PACI); The Global Sullivan Principles; The Council for Responsible Jewellery Practices (CRJP); and The Fund for Peace Human Rights & Business Roundtable. However, it is the Five Star Programme (discussed below) that helps to ensure Newmont's compliance with

these schemes and particularly with the Global Compact principles.

Within the extractive industry, Newmont works to be a leader in environmental and social responsibility. In 1999, nine of the world's largest mining companies, including Newmont, launched the Global Mining Initiative, which culminated in 2002's *Breaking New Ground* report. The International Council on Mining & Metals (ICMM) was formed to take forward the agenda identified in the report, including the creation of a "viable mining, minerals and metals industry that is widely recognized as essential for modern living and a key contributor to sustainable development."¹⁶

The company works to ensure that these various international policies and principles are implemented by their staff. Training for employees, a fundamental tool for dissemination and implementation of policies, is carried out on a regular basis. In 2005, 14 of the 18 Newmont sites undertook human rights training with employees and contractors working in security and other areas of operations. The company also set up a compliance line (phone line), which allows employees to report suspected violations of the Code of Business Ethics and Conduct, non-conformance with company policies, and any other concerns.

Newmont has a comprehensive reporting scheme, enabling shareholders and other stakeholders to better understand the company's operations, including non-financial issues. In addition to the company's Corporate Sustainability Report, which is assembled in accordance with the Global Reporting Initiative (GRI) and measured against the Institute of Social and Ethical Accountability's AA1000 standards, individual reports for each of the mine sites are on the company's website. The company also reports annually in accordance with the Global Compact Office policy on communicating progress made regarding the implementation of the Global Compact principles.¹⁷

Newmont's human rights commitments are broadly laid out in its Social Responsibility Policy and Guidelines. They include:

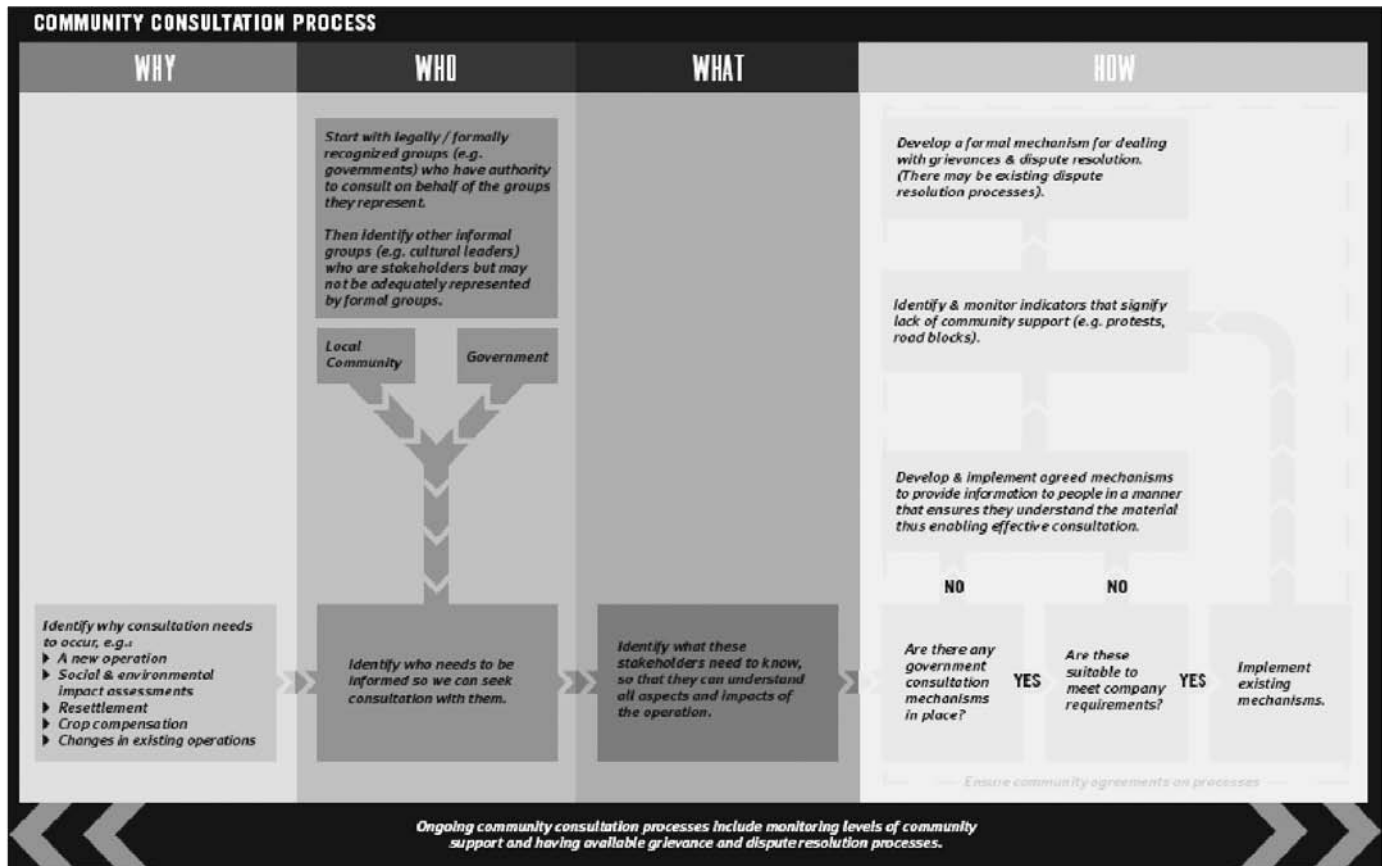
- Develop and use systems to identify and manage risks, and provide accurate information to support effective decision making.
- Train our people and provide the resources to meet our social responsibility objectives and targets.
- Respect the Universal Declaration of Human Rights in its business operations.
- Respect the social, economic and cultural rights of indigenous people.
- Adopt policies and standards and operating practices that ensure ongoing improvement.
- Wherever appropriate and feasible, set operating standards that exceed the requirements of the local law.
- Assess our performance against our policies and standards.
- Demand leadership in social responsibility from all our people.
- Seek to share our success by partnering with stakeholders in appropriate community development programmes.
- Consult stakeholders in matters that affect them.
- Strive to communicate our performance in an accurate, transparent and timely manner.

Source: Newmont's Social Responsibility Policy and Guidelines

The company has also developed a community consultation process, illustrated below, to help implement these guidelines and ensure stakeholder input. Such an approach enables managers to make better informed and more accurate decisions with regards to the interests of stakeholders.

The social policy relates to a variety of standards ranging from human rights commitments to environmental management principles. These standards of social responsibility guarantee consistency with the principles underlying various international instruments (e.g. UDHR), including the UN Global Compact, and also assure that the company is not otherwise complicit in human rights abuses.

Source: Newmont Corporate Sustainability Report Now & Beyond 2005: 29



In order to implement this policy a set of Social Responsibility Guidelines have been put in place with regard to operating goals, compliance standards and engaging stakeholders. These three areas will be identified in the next section of this case study.

Newmont's Five Star Integrated Management System

The Five Star Programme is put in place to ensure effective management processes and to address health and safety, and community and environmental responsibilities. The Five Star Programme was previously reviewed and improved in 2004 and is under current revision. It is aligned with the requirements of the International Organization for Standardization (particularly ISO14001), the Institute of Social and Ethical Account Ability's AA1000 Framework regarding stakehold-

er engagement, and occupational health and safety management systems (OHSAS 18001). Newmont recognizes that its responsibility extends beyond its workforce to encompass its broader impact in host communities and the environment. Thus, the Five Star Programme covers core operations, business partners, host communities and certain types of advocacy.

Composition

The Five Star Programme consists of the (1) Community and External Relations (CER) Standards, (2) environmental standards and (3) health and safety and loss prevention standards, all very similar to ISO 14001. They must be met at all levels on an annual review basis and are assessed by external auditors.

Each Newmont operation's standards are measured using the Five Star Assessment Criteria. The measurement looks

at both the management systems and the performance, with one star indicating an absence of system procedures and the need for significant improvement and five stars indicating formal systems and an excellent performance. The star rating system was restructured to better measure conformance to the *intent of the standard* in 2004.

Community and External Relations (CER) Standards

This case study focuses on the CER Standards, which are intended to assist the company's operations within a framework that ensures respect for human rights, including land access, indigenous issues, security forces management and resettlement. In designing the CER Standards, the company relied on internationally recognized guidelines, including the Global Reporting Initiative and the

Institute of Social and Ethical Accountability standard on stakeholder engagement (AA 1000). The CER Standards are accompanied by a regular monitoring of the site performance, and are designed to reduce actual or potential harm of operation, in accordance with relevant norms and principles of prior informed consultation, mutual respect, integrity, and transparency.

Internationally recognized principles are made part of the strategy, culture and day-to-day operations of the company via these standards. Auditors assess each item based on its intent. A review of the CER Standards, in practice, is examined in the following section in relation to the Yanacocha operations in Peru and based on an external audit report of the site from June 2006.

Engaging with communities

Mutually beneficial, trusting and long-lasting relationships can only be built upon ethical commitments, principles and law. The quality of a company's relationships with its stakeholders, including the communities surrounding its operations, is important to its human rights performance.

Burke & Logsdon¹⁸ argue that “by becoming more aware of the benefits to both the firm and its stakeholders, managers can make better decisions about CSR activities.” Along the same lines, Freeman¹⁹ calls for a “name-and-face approach” to stakeholder management. Such an approach enables managers to make better informed and more accurate decisions with regards to the true interests of stakeholders. A chart in the version of this case study on the Global Compact website illustrates the community consultation process utilized by Newmont as part of its Five Star Integrated Management System. It shows an appreciation of the value of stakeholder engagement.

The CER Standards currently include fourteen specific issues.²⁰ The standards cover a broad range of topics of concern to communities affected

by mining operations. These include, among other things, preservation of important community sites; support of community businesses and employment; performing social impact assessments; and creating plans for mine closures and resettlements:

1. Management of sites with cultural and/or religious significance

Standard's intent: To assist each Newmont managed facility with properly respecting and adequately protecting all sites with cultural or religious significance for Indigenous peoples in the facility's sphere of influence.

The performance assessment is based on the significant number of incidents during a period of time (a year) and the proactive steps that are taken to preserve and provide appropriate access to significant sites.

2. Management of heritage sites

Standard's intent: To assist each Newmont managed facility to take the necessary steps to properly respect and adequately protect all sites with heritage significance or potential heritage significance in the facility's sphere of influence.

The performance assessment is dependent on the significant number of incidents during a period of time (a year) and the proactive steps that are taken to preserve and provide appropriate access to significant sites.

3. Land access and acquisition

Standard's intent: To assist with the acquisition of the necessary permits, permissions and land titles before any exploration, mining and other related activity commences.

The performance assessment is conditional on the number of complaints and incidents related to land acquisition and access issues and the effective resolution of complaints during the assessment period.

4. Local community investment

Standard's intent: To assist each Newmont facility to have a strategic programme based on a needs analysis, for financial and in-kind assistance that delivers sustainable benefits to the local communities.

The performance assessment contemplates local community investments made by the operation based on a needs-analysis developed through consultation and once the investment is made, the sustainable contribution of it to the community's development after the life of the mine.

5. Indigenous employment and business support

Standard's intent: To provide proactive steps towards employment and business opportunities to local Indigenous stakeholders thereby ensuring inclusion, wherever possible, in opportunities provided by the facility's presence.

The performance assessment considers the effort made by the facility to maximize opportunities for Indigenous employment and business support. The performance will be excellent when the targets are industry norms and are exceeded.

6. Media relations

Standard's intent: Proactive relations with local media are expected to be well established in order to obtain a balanced coverage of issues.

The performance assessment depends on efforts to engage in proactive media relations to achieve positive news coverage and the sustained media coverage of local initiatives.

7. Staff and Contractor Behaviour

Standard's intent: To provide steps to assist with addressing the impact that employee and contractor behaviour can have on the

relationships that exist between the facility and the local community.

The performance assessment scrutinizes the number of incidents during the assessment period. Newmont requires contractors to meet standards similar to those to which the company is committed.

8. Government relations

Standard's intent: To assist Newmont managed facilities with a proactive approach to government relations.

The performance assessment rests on the degree of communication that the facility has with most levels of government. For a very good performance, the facility has to demonstrate its involvement with some level of government raising community relevant issues and the benefits for the community and the facility emerging from that relationship.

9. Social impact assessments

Standard's intent: To promote the practice of social impact assessments and their maintenance and use to inform the operation's risk assessment and external relations strategic planning.

The performance assessment looks at any specialist study or social impact assessment developed by the facility. The study should cover not only the impact during the time of life of the mine, but also after its closure.

10. Human rights awareness

Standard's intent: To assist Newmont managed facilities to have internal processes for raising human rights awareness, including identification of human rights issues and impacts.

The performance assessment is based on the identification of human rights responsibilities, derived from UN instruments, and issues which can arise from the operation of the facility.

11. Local employment and business support

Standard's intent: To provide proactive steps for providing employment and business opportunities to local stakeholders thereby ensuring their inclusion, wherever possible.

The performance assessment focuses on the effort made by the facility to maximize opportunities for local employment and business support.

12. Security forces management

Standard's intent: To assist Newmont managed facilities to provide safety and security within a framework that conforms to the Voluntary Principles on Security and Human Rights (The Principles).

The performance assessment depends on the number of cases of human rights abuse and awareness of human rights responsibilities under The Principles. The ultimate aim is to promote respect for human rights by security forces.

13. Closure

Standard's intent: To promote the effective identification and management of potential closure and post-closure risks and opportunities throughout the mining life-cycle.

The performance assessment ensures that the facility has conducted a post-closure plan in conjunction with stakeholders and takes into account the possible contributions to meeting community needs. "Sites must assess the potential social and environmental impacts of closure and begin planning for closure right from the start of a project" (Newmont 2005a: 34).

14. Resettlement

Standard's intent: To assist Newmont operations to develop and implement resettlement plans that offset the short and long term adverse cultural and socio-economic impacts.

The performance assessment

peruses the number of complaints submitted by displaced persons, the resolution of these cases and the short and long term adverse impacts of the resettlement.

Five Star Rating System—Assessment regarding the CER Standards

In relation to the CER Standards, the Five Star Assessment Criteria supplies a yardstick against which each Newmont operation's Community and External Relations can be measured. The measurement looks at both the management systems and the performance. Each star corresponds to a certain level of performance as follows:

1 Star (*) = Significant improvement required.
Comment: No system procedures developed.

2 Stars (**) = Improvement required.
Comment: Informal or incomplete system procedures.

3 Stars (***) = Target requirement.
Comment: Formal system procedures implemented.

4 Stars (****) = Very good performance.
Comment: Formal system procedures implemented with effective internal auditing, internal reviews and continual improvement.

5 Stars (*****) = Excellent performance.
Comment: Formal system procedures implemented with sustained continual improvement and being integral to site culture.

Five Star Community and External Relations Assessment: Yanacocha operations

This section reviews how the CER Standards in Newmont's Five Star Programme have been implemented at the Yanacocha gold mine in Cajamarca, Peru. The key findings in this section come from Minera Yanacocha Five Star Assessment 2006 (the Yanacocha Assessment), a non-public internal document that refers exclusively to conformance with the CER

Standards.²¹ A number of key findings and opportunities for improvement are summarized below.

Peru

Peru is the third largest country in South America, with a population of approximately 28 million. It has abundant natural reserves of copper, silver, lead, zinc, natural gas and gold. Extractive industries have played a major role in Peru's history since the Spanish conquest in 1533; however, they have not generated a broad base for development. The failure of governments to deal with social and economic inequality has held back the country's progress. Poverty is concentrated in the highlands and forests, where much mineral extraction takes place.

During the 1980s, Peru experienced one of its most horrid economic crises, worsened by political violence and the denial of rights. A centralized authoritarian regime pulled the country out of its economic chaos in the 1990s, and the economy sustained a 7% growth rate from 1993 to 1997. Economic growth has slowed considerably since then. By 2000, poverty indicators climbed back to their 1994 rates (UNDP 2004), while inequality and corruption persist.

Deep-rooted problems, such as inefficiency of the judiciary, poor working conditions, deprivation of rights and discrimination against women and indigenous peoples, present an intricate human rights challenge. A company must not only reconcile environmental and social responsibility concerns that may be created by its business operation, but also be able to understand the social and economic challenges that have been generated by history and respond adequately through its business activities.

Yanacocha

Minera Yanacocha is the biggest mine in Latin America and the second largest in the world.²² It covers around 22,000 acres and contains five open pit

mines and processing facilities, two of which are active.²³ Newmont holds a 51.35% ownership, Compania de Minas Buenaventura S.A. owns 43.65%, and the World Bank indirectly holds the remaining 5%. The mine is expected to be productive until 2018.²⁴

The mine operates in an environmentally sensitive area made up of farms that rely on water from the mountains in the mine area. About 32,000 people live in communities near Yanacocha and around 120,000 people live in Cajamarca. Local communities have repeatedly threatened legal action, citing disregard for their rights and environmental damage, including mercury spills.²⁵

In 2004, in the face of community contest, the company withdrew the exploration permit for Cerro Quilish mine. Newmont maintains that it will not mine Quilish without community support.

The situation has recently improved as a result of the social responsibility policy Newmont formalized after 2002. In 2004, Newmont prepared a human rights assessment of the Yanacocha operation against the UN Norms on the Responsibilities of Transnational Corporations. It concluded that Newmont needed to raise awareness of human rights and increase accountability. In response to this assessment, an action plan was developed in 2005 to identify potential human rights issues and verify compliance, performance and reporting against Newmont standards.

The implementation of the Five Star Programme has contributed to significant progress towards Newmont's environmental and social commitments. According to the Yanacocha Assessment,²⁶ this programme establishes a functional system that improves the site's external relations risk management.

Key findings and opportunities for improvement

The independent assessor observed that Yanacocha's employees exhibit a greater sense of ownership and understanding of the elements and

benefits of the CER Standards. This new sentiment is attributable to corporate efforts oriented towards finding ways to illustrate in simple and quantitative terms the site's social performance. Improvements are particularly associated with CER Standards 4, 6, 8, 10 and 11: the company prioritized stakeholder engagement and increased support for local employment; the site staff worked towards developing formal objectives and indicators for individual areas; they have also developed community projects with local authorities and organizations; management has emphasized human rights training; and the current complaint system provides mechanisms for raising human rights issues.

Despite these advances, the analysis noted diverse complaints among the community members. These ranged from concerns over the water supply and land degradation to the complaint system and closure plan. The most common stakeholder complaints regard contractor behaviour and the perceived lack of corrective action taken by Newmont in response.

An examination of the complaint system confirmed that registered stakeholder complaints produce scant corrective action. In the assessor's view, this was due to several factors: a lack of analysis of the underlying cause of complaints; an absence of formal entry of corrective actions; and internal audits and management review that were neither traceable nor carried out in great depth. Further evaluation of this process will clarify whether the complaint system is accessible and trusted by external stakeholders.

The Yanacocha Assessment also noted deficiencies in CER Standards 13 and 14—closure and resettlement, respectively. While CER Standard 13 has only been in place for one year and is not developed at the site, the company has committed itself to making comprehensive post-closure plans, taking into consideration the needs of stakeholders. However, with reserves expected to last only until 2018, less

than 12 years remain to assist the development of a sustainable community.²⁷ Ideally, such a challenge necessitates action at the earliest stages (exploration), including social impact assessment (CER Standard 9) with stakeholder engagement and government participation (CER Standard 8). The Yanacocha site also has not created a formal resettlement plan under CER Standard 14 for projects requiring the purchase of land.

The assessor observed that the top regional management remains distant from the Five Star Programme. Senior managers need to improve their understanding of the process; in particular they lack explicit goals in their Performance Management Tracker (PMT) relating to external affairs. Consequently, some key areas such as standard operational procedures, management review and auditing are operational but not fully functional.

Conclusion

The public responsibilities of the extractive industries mean that it is essential for the mining industry to develop a system that assists in incorporating social and environmental aspects into the decision-making process of the organization, including the regular monitoring of their performance. To this effect, Newmont, conscious of the global risks of its operations, has committed itself to minimising the negative impacts of mining via leadership in safety, stewardship of the environment and social responsibility.

Newmont's strengths

It is expected that the implementation of social and environmental policies into the day-to-day business operations, *inter alia*, secure human rights, mitigate the propensity of conflict and improve dialogue between the company and the community. Newmont's commitment to environmental and social responsibility has a number of strengths, most significantly, the following three:

a) CEO engagement

Newmont's leaders have, over time, made a number of explicit statements on the

importance of Newmont's social and environmental performance. This is crucial because the engagement of a company's leadership is fundamental for social responsibility development and policy. In the last quinquennium, Newmont has expressed its commitment to a variety of international instruments that can guarantee, if followed, an adequate level of human rights compliance. Newmont understands that a corporate responsibility approach based solely on compliance with national laws does not fit its needs. Mining operations cross the boundaries of national laws and business, involving multifarious activities and disciplines such as concession, exploration, operation, international trade, closure, labour rights, human rights and the environment. CEO initiatives are aimed at gaining an understanding of how the mining sector can better contribute to sustainable development. Accordingly, Newmont has developed into a mature organization, which incorporates environmental and social dimensions within its decision-making process. The CSR structure is aligned and is consistent with its policy, making possible the implementation of Newmont's social commitments.

b) Awareness

The company has demonstrated a deep awareness of the human rights implications of its activities. Newmont has developed a system (the Five Star Integrated Management System) that integrates social concerns into its business strategy. Such awareness is not restricted to the recognition of such responsibilities, but is accompanied by a desire to improve the Five Star Programme (which was reviewed in 2004 and is scheduled for its next review soon) and an acknowledgement of its weaknesses. In 2005, for example, 14 of the 18 Newmont sites undertook human rights training with employees and contractors working in security and other areas of operations. In modern times, companies have to balance their need for safety while ensuring that their actions are consistent with the protection of human rights.

c) Transparency

Transparency, which entails the full and timely disclosure of information, is a basic element of social responsibility and one that was observed when discussing the key issues of this case study with the company. Transparency enables shareholders and other stakeholders to have a better understanding of a company's operations, including non-financial issues. Newmont has adopted a comprehensive scheme of reporting, which is notable in this respect. In terms of communication with stakeholders, this has increased considerably and consequently the perception of stakeholders in relation to the company's image has improved (2006 Yanacocha Five Star CER Assessment).

Newmont has demonstrated an increased social commitment over the last five years, but progress in some key areas seems overdue considering that the Five Star Programme has existed for four years. Newmont, like all companies, risks having its social responsibility management systems become mere guidelines on community relations if it does not fully develop tools to measure performance, train employees, give stakeholders the opportunity to participate, conduct management reviews and audits, and make the social responsibility programmes prescriptive. Effective implementation of Newmont's social policies will require such actions.

Cross-referencing data and analysing historical performance of Newmont's sites may provide an opportunity to identify practical changes that would improve management systems and target deficient areas. For example, from 2004 to 2005, the company's Community Relations & Development Discipline-Specific Standard shows no substantial improvement in several areas, such as indigenous employment and business support and local community investment (Newmont 2005a: 37). As the Five Star Programme continues to evolve, current shortcomings might be resolved through improvements in these areas.

Overall, Newmont's Five Star Programme has set the foundations for the development of a corporate culture that

takes into account international human rights (Global Compact Principle 1). Ensuring that the company is not complicit in human rights abuses related to its activities (Global Compact Principle 2) is somewhat more complex and will depend largely on operational factors, accountability and continuous auditing.

Endnotes

- 1 *Complete 2005 Information Handbook*, available at <http://www.newmont.com/en/investor/infohandbook/index.asp>, visited on 2006-10-13.
- 2 A. Warhurst 1998, Corporate Social Responsibility and the Mining Industry, available at <http://www.mineralresourcesforum.org/docs/pdfs/merncsr.pdf>, visited 2006-12-15.
- 3 Euromines 2004 Annual Report, available at http://www.euromines.org/downloads/Annual_Report_2004.pdf, visited on 2006-09-05.
- 4 T. Power 2002 Digging to Development? A Historical Look at Mining and Economic Development, available at <http://www.eldis.org/cf/search/disp/docdisplay.cfm?doc=DOC10561&resource=f1>, visited 2006-08-31.
- 5 A. Warhurst & A. Lunt, 1997. Corporate Social Responsibility: A Survey of Policy, Research and Consultancy Activity World Business Council for Sustainable Development, London.
- 6 UNEP, 2001. Mining available at <http://www.unep.org/pc/mining/index.htm>, visited 2006-09-12.
- 7 J.D. Sachs & A.M. Warner, 2001. "The Curse of Natural Resources" *European Economic Review* 45(4): 827-838.
- 8 For cases and opprobriums linking global mining companies with human rights abuses, see: <http://www.business-humanrights.org/Categories/Sectors/Naturalresources/Mining>.
- 9 This case study defines sustainable development as development that "meets the needs of the present without compromising the ability of future generations to meet their own needs." (Brundtland Report, 1987).
- 10 The selected Global Compact Principles: Principle 1: Businesses should support and respect the protection of internationally proclaimed human rights.
Principle 2: Businesses should make sure that they are not complicit in human rights abuses.
- 11 Murdy, former Chairman and CEO of Newmont, 2005 at *Complete 2005 Information Handbook* available at <http://www.newmont.com/en/investor/infohandbook/index.asp>, visited on 2006-10-13.
- 12 See the company's 2006 pronouncement in The Standards We Adhere To, visited on 2006-09-08.
- 13 Personal Correspondence, October 2006.
- 14 Newmont 2006, *Vision and Values*, available at <http://www.newmont.com/en/about/vision/index.asp>, visited on 2006-11-08.
- 15 Code of Business Ethics and Conduct 2006:14 at *Vision and Values* available at <http://www.newmont.com/en/about/vision/index.asp>, visited on 2006-11-08.
- 16 For more about the ICMM, see <http://www.icmm.com>.
- 17 Three key challenges emerged recently for Newmont: resettlement in Ghana, allegations of pollution from tailings in Indonesia, and community protest over Cerro Quilish in Peru. These issues have been addressed in the *2005 Corporate Sustainability Report*, which provides a breakdown of the information of Newmont's mining operations in these three geographic areas, as a response to stakeholders' concerns around these issues. Furthermore, the Report incorporated an independent assurance and included visits to operating locations in Ghana, Indonesia, Nevada, Peru, and to the corporate Headquarters in Denver.
- 18 Burke & Logsdon 1999: 499.
- 19 Freeman 2005: 61.
- 20 Newmont's website, *Five Star Management Programme*, available at <http://www.newmont.com/en/social/fivestar/community/index.asp>, visited on 2006-17-08.
- 21 The data presented in this part of the case study is based on Yanacocha Five Star Community & External Relations Assessment-Report Version Final, June 2006.
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- 23 In 2005, Minera Yanacocha sold 3.3 million consolidated ounces of gold. Proven and probable reserves contained approximately 32.6 million ounces of gold and 3.2 billion pounds of copper. For the same year, Minera Yanacocha workforce included 2,987 employees and 7,126 contractors. (Newmont Corporate Sustainability Report Now & Beyond 2005: Minera Yanacocha).
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- 26 Above, n. 21.
- 27 In relation to this goal, see Thomas Enos, Senior Vice-President, Operations in Newmont Corporate Sustainability Report Now & Beyond 2005, available at <http://www.newmont.com>, visited on 2006-09-08.

Better health and safety for suppliers: A partnership project between Volkswagen, ILO & GTZ

Maria Kristjansdottir*

Human rights issues addressed

- Occupational health and safety
- Supply chain
- Working conditions

Human rights management practices discussed

- Getting started
- Strategy
- Policy
- Processes and procedures
- Communications
- Training
- Measuring impact and auditing

Human rights standards, tools and initiatives mentioned (beyond the UN Global Compact)

- ILO Conventions

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Abstract

This case study examines a collaborative effort undertaken by Volkswagen AG, the International Labour Organization (ILO) and the German Corporation for Technical

Cooperation (GTZ) to improve occupational health and safety in Volkswagen's supply chain.

Approximately 270 million occupational accidents occur each year, and there are some 160 million incidents of occupational diseases. Occupational health and safety is an important human right and labour issue, and efforts to tackle it help advance Global Compact Principle 1: the support and respect of internationally proclaimed human rights. The project examined in this case study is called "Better Health and Safety for Suppliers."

Company profile

The Volkswagen Group (Volkswagen) is one of the world's leading automobile manufacturers and the largest carmaker in Europe. The company was founded in 1937 and its headquarters are in Wolfsburg, Germany. Volkswagen develops, manufactures and markets automobiles and services. Volkswagen AG is the par-

ent company of the Volkswagen Group. Volkswagen includes Volkswagen Passenger Cars, Volkswagen Commercial Vehicles, Audi, SEAT, Skoda, Bentley, Bugatti and Lamborghini. Each brand retains its own identity and operates independently in the marketplace.¹ As of 30 September 2006, the number of people employed by Volkswagen was 329,075. Fifty-two percent of these employees were working at Volkswagen companies in Germany, and 48% at Volkswagen companies abroad.² Volkswagen operates 44 production plants worldwide, in eleven European countries and seven countries in the Americas, Asia and Africa. Volkswagen sells its vehicles in over 150 countries.

In the first nine months of 2006, Volkswagen sold 4.264 million vehicles, had annual sales revenues of €77 billion, and had after-tax profits of €1.2 billion. These numbers correspond to a 9.5% share of the world passenger car market. Volkswagen has 19.6% of the passenger car market in Western Europe, 11.7% in Central and Eastern Europe, 2.8% in North America, 18.7% in South America and South Africa, 6.3% in Asia-Pacific and 11.2% in remaining markets.

Introduction

According to ILO statistics, approxi-

* Maria Kristjansdottir is a graduate student at Fordham University School of Law. At the time of writing this case study, she was a Masters student at the Reykjavik University, School of Law. Peer review of this case study was provided by Gerhard Albracht, Senior Specialist in Occupational Safety and Health and Head of the Labour Inspection Unit, ILO, Geneva. The case study was researched and written without any financial support from Volkswagen. The complete version of this case study, including references and additional annexes, is available on the UN Global Compact website at www.unglobalcompact.org.

mately 270 million occupational accidents occur each year, and there are some 160 million incidents of occupational diseases. The ILO estimates that 4% of the world's Gross Domestic Product (GDP) is lost with the cost of injury, death and disease through absence from work, treatment for sickness, disability and survivor benefits.³ The statistical results vary by region. Depending on the country, the industry, and the organizational structure and conditions of the workplace, Occupational Safety and Health (OSH) poses different challenges.

Specific factors contributing to the high incidence of work-related accidents and occupational diseases problems are weak health and safety laws, lack of enforcement mechanisms,⁴ and unsatisfactory implementation measures at the company level. Health and safety precautions at the workplace itself are frequently insufficient. In developing and threshold countries, there is an additional risk that occupational accidents or illness-caused absences may result in job loss and/or other loss of income, which can in turn lead to greater poverty due to a lack of adequate social security systems.

Occupational health and safety is both a human right and a labour issue that is addressed in international human rights and labour instruments.⁵ Unhealthy working conditions may undermine the enjoyment of human rights stated in the Universal Declaration of Human Rights (UDHR), such as the right to life and security of the person (Article 3) and the right to favourable conditions of work (Article 23), as well as rights found in the International Covenant on Economic, Social and Cultural Rights, including the right to safe and healthy working conditions (Article 7) and the right to the highest attainable standard of physical and mental health (Article 12). The ILO has developed and maintained a system of International Labour Standards.⁶ The standards have the objective of promoting opportunities for women and men to obtain decent and productive work

in conditions of freedom, equity, security and dignity. They include standards on occupational health and safety. Efforts to improve occupational health and safety are examples of implementation of Global Compact Principle 1: supporting and respecting internationally proclaimed human rights.

The "Better Health and Safety for Suppliers" project, which is the subject of this case study, is aimed at improving occupational health and safety in Volkswagen's supply chain. The project was launched in June 2004 and will be concluded in mid-2008. This case study was written at the beginning of 2007 and takes into account the status of the project at that time. It examines what actions had been taken up to that point and how they have worked, as well as lessons learned and next steps.

The project entailed asking selected Volkswagen suppliers in Brazil, Mexico and South Africa to participate in audits with respect to OSH in their workplace. Based on the findings of these initial audits, recommendations were made to the suppliers and used to generate a checklist for a second review (conducted up to six months after the initial audit). A report was then created that documented the audit findings, including any improvements observed during the second review. When all the suppliers have been assessed, general best practices will be developed and collected for an online network. This network will provide guidelines on health and safety for other countries and enterprises to follow. The ultimate goal of the project is to develop international guidelines for OSH and supply-chain management. The online network will be accessible to those who require advice regarding OSH and will provide information about best practices and lessons learned.

Sustainable development and CSR at Volkswagen

In 2003, Volkswagen signed off on seven Group Values as a guideline for their employees. Sustainability is one of the Group Values. According to the

vision of Volkswagen, sustainability is founded on the following principles:

- maintaining a long-term balance between economic, environmental and social systems;
- taking responsibility for one's own actions at all levels: regional, national and global;
- ensuring transparent communications and fair cooperation.⁷

These principles are consistent, and work in tandem, with the UN Global Compact's Ten Principles and the ILO Declaration on Fundamental Principles and Rights at work and of promoting decent work⁸ via an enterprise approach. Successful cooperation with employees' representatives is a key component of Volkswagen's approach. This cooperation was internationalized with the creation of the European Group Works Council in 1992 and again in 1999 when Volkswagen became the first company in the car industry to establish a Global Group Works Council. The Global Group Works Council meets at least once a year with the Management Board and international human resources managers to discuss important issues, such as employment situations at the various locations, development of working conditions and cross-border production movements.

In February 2002, Volkswagen and the Global Group Works Council signed the "Declaration on Social Rights and Industrial Relations" (the Social Charter).⁹ The Social Charter commits the company and its employees to social rights and corporate policies that seek to link globalization with social responsibility. The Charter is partially based on the conventions of the ILO and makes a social commitment to certain core social rights that apply to Volkswagen worldwide. These core rights include freedom of association, free choice of employment and rules governing OSH Protection.¹⁰ In order for the Social Charter to be as effective as possible, Volkswa-

gen has taken the step of publicizing it at all of its locations, ensuring that the workforce knows its rights. The Global Group Works Council monitors charter compliance. Any indication that the behaviour code has been violated is taken seriously and investigated.

Volkswagen is dedicated to developing fundamental principles and obligations on OSH to assure proper health care for the employees in the Volkswagen Group. The main emphasis of Volkswagen's OSH approach is on preventative measures.

In 1999, the company developed "Guidelines on Health Protection and Health Promotion in the Volkswagen Group" (Group Guidelines).¹¹ The Group Guidelines contain general recommendations, binding minimum standards and obligatory directions for action. As set forth in the Group Guidelines: "A company is as healthy and efficient as its workforce... The protection and promotion of the health of the employees is therefore not only a social obligation but also an economic necessity." Furthermore, the holistic perspective to OSH taken by Volkswagen can be seen in the Guidelines' preamble:

*Health protection and health promotion are pursued within the framework of an active health policy in the form of holistic health management covering the working situation, the workforce, the company as a whole, the products and the environment of the company.*¹²

In September 2004, Volkswagen introduced an Occupational Safety Policy. The policy provides a far-sighted basis for the strategic direction and objectives of occupational safety activities for the company's different brands and regions. All measures designed to preserve and promote the health and safety of the workforce are based on this policy.¹³

The company's health management system in Germany has been recognized as a "Model of Good Practice" by the European Network for Workplace Health Promotion.¹⁴

How the better health and safety for suppliers project unfolded

The Better Health and Safety for Suppliers project is a partnership project between Volkswagen, ILO and the German Corporation for Technical Cooperation (GTZ).¹⁵ The project was launched in July 2004 and will be concluded in June 2008. The partners' common goal is to establish a health and safety culture at work by means of improving labour standards. Volkswagen chose to address this issue because the company wanted to strengthen its policy in Health Protection, Promotion and Occupational Safety. One of Volkswagen's major aims of the project is to improve the overall OSH knowledge and to identify best practices through project activities and the social partner network.

The project's origins can be traced back to 2004, when the ILO approached Volkswagen regarding cooperation in the area of OSH. The ILO cited the company's innovative policies and progressive thinking on OSH protection and promotion as reasons why Volkswagen should consider getting involved.

Under the project, a high-level tripartite committee composed of representatives of the three partners—Volkswagen, ILO, GTZ—the Overall Steering Committee (OSC), gives broad direction and approves the general work plan, the process optimization approach to OSH, as well as any progress made in this regard. The OSC also approves the composition of the National Steering Committees (NSC) for each country in the project. The NSC for each country is the national body that approves the project work plan and provides direction to the project activities. It is composed of government, representatives of employers and workers and representatives from Volkswagen, ILO and GTZ.¹⁶

Selected members of the Volkswagen supplier chain in Brazil, Mexico and South Africa were selected and asked to join the project. By participating, the suppliers aimed to offer themselves as examples of firms using best practices.

The results will be collected and disseminated through a competency network. By communicating their results to the community at large, these example firms will provide information on health and safety for the countries and companies involved.

Once the suppliers taking part in the project had agreed to participate, Process Optimizing Teams (POTs) were sent to each supplier to conduct an audit and assess OSH in their workplace. The members of the teams consisted of a national project coordinator, who served as the head of the team, a representative from Volkswagen Group (OSH expert), two representatives from Volkswagen in the relevant country (process optimizing expert and OSH), two labour inspectors from the relevant country and, in some instances, a representative from ILO. These first visits were called Process Optimizing Consultations (POCs), and were conducted with the purpose of identifying the strengths and weaknesses of the suppliers with regard to their OSH practices. The teams then provided suggestions for improvement. The POCs were conducted within defined timeframes for each country in the project. The POCs were conducted in South Africa in August 2005, in Mexico in February and March 2006, and lastly in Brazil in August and September of 2006.

Before the POC consultation took place, preparatory workshops were conducted in each country. There were two kinds of workshops, one for the suppliers and one for the teams conducting the audits. The main aim of the workshops was to brief the participants on the project's goals and methods and the consultation. The project's partners wanted to provide uniform information about the project and give participants a chance to absorb that information.

The procedure for the POC was that the teams spent approximately two days at each supplier conducting their audit. On the first day, POT performed an inspection of the supplier's premises and interviewed representatives of the suppliers. On the second day, POT reviewed the

reports generated from the inspection and interviews, and agreed upon results for the supplier's situation. POT then met the supplier's representatives and conducted a feedback discussion, which included sharing their recommendations.

The inspection checklist used in the POC procedure was based on a checklist already in use by Volkswagen in Germany, but was adjusted to fit this specific project. The checklist of issues included:

- condition of the workplace
- condition of the storage facility
- condition of social rooms
- operation of machinery
- all forms of hazards
- notices on display about OSH issues¹⁷

A standard questionnaire was used for the interviews.¹⁸ Those interviewed were the Chief Executive Officer, a representative from senior management, a representative of the employees, trade union representatives, occupational safety experts, in-house or external (as required), and medical doctors (as required).

On the basis of the results of the inspections and the answers in the interviews as well as the consultants' personal impressions, POT produced a report on the findings that described the present situation and gave recommendations. The list of recommendations will be used as a checklist for a review that is conducted four to six months after the initial consultation by the same team. The improvements that have taken place at that supplier will be documented by photos, and a second report will then be written. When all the suppliers have been assessed and audited, and the second reports have been written, the next phase of developing best practices can begin.

The preventative service system

The ultimate goal of the partnership project is to develop international guidance for OSH and supply chain management. These guidelines are called

the Preventative Service System (PSS). The aim of the PSS is to provide expert knowledge regarding the implementation of OSH standards to small and medium-sized enterprises by setting up an information and consultation network. This network will be guided by a global health and safety culture and will be accessible to those who need advice on OSH problems. The network will provide information and knowledge about specific national issues, best practices and lessons learned.¹⁹

Project financing

The project is a public-private partnership between the three partners (Volkswagen, the ILO and GTZ). The project allocation is partly drawn from the German Federal Ministry for Economic Cooperation and Development's "2015 poverty reduction fund." The estimated cost for the project is approximately €1.1 million. Volkswagen contributes €300.000, GTZ contributes €600.000, and the ILO contributes €200.000. The costs cover staff time, travel expenses, materials, preparation workshops, and document translation.

Implementation of the project

First, the relevant national representatives of the governments, unions and Volkswagen plants were asked to participate in and support the project. It quickly became clear that the project's partners did not agree on the number of the suppliers that should participate in the project. Some of the partners wanted to include all of Volkswagen's suppliers in the respective countries. The partners created a list of indicators, which was used as a criterion for the selection of suppliers, and eventually agreed on eight to twelve suppliers from each country.

The next step was to create a list of questions to ask each supplier, formulate the checklists used in the inspections, and decide on the agenda for the workshops to be held for the suppliers in each country.

Implementation and results in different countries

As mentioned above, the implementation of the project is now well under way, with the projected conclusion of the project set for June 2008. This section will lay out the results of the project thus far.²⁰ Performance was considered "Excellent" if the supplier received a score of 85% or greater; "Good" if they received a score of 70% to 84.99%; 55% to 69.99% was considered "Satisfactory"; 40% to 54.99% was "Poor"; and any score less than 40% was considered "Disastrous."

South Africa

South Africa was the first country to receive a POC consultation. The audits were conducted in August 2005. Eight Volkswagen suppliers from South Africa, with 28 to 900 employees each, were selected to take part in the project. The audit scores in South Africa ranged from 31% to 70%, the average being 54.44%.

The initial audits revealed that there was a significant lack of OSH protection. None of the audited suppliers had a comprehensive policy that was formulated through social dialogue, which would have ensured effective communication between management and worker representatives. The elements of risk assessment were not well-articulated, and comprehensive guidelines had not been formulated and distributed to ensure proper risk assessment. All of the suppliers provided personal protective clothing and equipment against hazards to their employees. This was done, however, through a somewhat haphazard system. The team found that there was no standard method of collecting occupational accident statistics. In addition, suppliers' CEOs were generally not aware of their responsibility with regard to OSH. Overall, the audit of the suppliers in South Africa revealed that there was room for improvement in process optimization and cost saving.

The suppliers in South Africa displayed a willingness to implement the POT recommendations. One of the recommendations made by POT was that the suppliers should provide comprehensive guidance for the Department of Labour Inspectorate of South Africa by defining ways to measure OSH programme performance. POT also recommended that suppliers establish an inspection system that would focus on proactive compliance through implementation of preventive OSH intervention programmes.

In November 2005, POT conducted follow-up visits to the suppliers to determine the progress made since the initial audits. With the exception of one, all of the suppliers had made significant progress towards the formulation of a comprehensive policy. All of the suppliers had established and documented information on the occupational hazards through a systematic risk assessment process. The suppliers had implemented a system for recording and investigating occupational accidents, injuries and illnesses with special emphasis on preventing reoccurrences. POT also found that there had been a visible increase in the use of personal protective clothing and equipment by employees.

In the second half of 2006, the Overall Project Steering Committee initiated a pilot phase of the PSS in South Africa in cooperation with the South African Department of Labour. The concept for the pilot PSS is based on KomNet,²¹ a consulting system from the Ministry of Employment, Health and Social Affairs of North Rhine-Westphalia.

The methodology used for implementing the pilot phase of the PSS included the compilation of an initial inventory of major web-based information and communication systems providing support and advice on OSH. Although different approaches are used in these systems, the comparison of the information revealed some main features that were common to all web-based service systems, such as toll-free accessibility, use of different interfaces or channels, provision of individual answers and anony-

mous interaction. As a result, any worker or employer can contact the helpdesk by phone, fax or the Internet. The helpdesk officer will take note of the question and transmit it to a group of experts. All questions and answers will be collected in the database and later made available to everyone.²²

Mexico

The initial audits of the suppliers taking part in the project in Mexico took place between February and April 2006. Twelve suppliers from Mexico with 75 to 1,550 workers were selected to take part in the project. The audit scores ranged from 62% to 97%, the average being 80.31%.

The initial audits showed that a management system was already in place. In addition, the documentation on occupational accidents and diseases was excellent. However, there was no systematic communication between management and workers and no practical implementation of OSH policy. POT's overall finding was that there was room for implementation of practical and efficient OSH practices. The suppliers indicated a willingness to implement the recommendations made on the basis of the audit's results.

The follow-up visits to the suppliers in Mexico took place in December 2006. Significant progress had been made towards implementing the recommendations given by POT following the initial audits. Of the 192 recommendations made, 121 (63%) had already been implemented, 54 (28%) were in the process of being implemented and only 17 (9%) were not yet in the process of being implemented.

Brazil

The initial audits of the participating suppliers in Brazil were conducted in August and September 2006. Seven suppliers from Brazil with 110 to 300 workers were selected to take part in the project. The audit scores ranged from 53% to 86%, the average being 70.06%.

Shortly before the initial audits, the Brazilian government decided not to take part in the audits with their labour

inspectors as originally planned. Nevertheless, all of the selected suppliers except one participated in the project. A two-day workshop was held for OSH experts of SMEs (small or medium-sized enterprises), and the suppliers expressed a willingness to accept the recommendations. As of January 2007, the follow-up visits have not yet taken place in Brazil.

Key recommendations

ILO has compiled a summary list of the key recommendations emerging from the POC consultations in the three countries participating in the project:²³

- There is a need for review of the national inspectorate approach with regard to the proactive approach.
- The inspectors need to provide technical guidance on compliance with legal provisions through promoting implementation of the remedial action plans based on a proactive thrust.
- Businesses have clearly acknowledged the need to be given technical guidance on the improvement of working conditions through comprehensive structures sustained interventions that are based on proactive OSH programmes.
- The inspectorate needs to adopt an attitude of providing the essential technical advice, assistance and auditing to ensure that enterprises develop and implement long-term sustained intervention proactive operational programmes in the world of work.
- The Departments of Labour in each country countries needs training on the ILO Conventions and Technical Guidelines on OSH.
- There is a need to review the overall OSH inspectorate approach to OSH to ensure that the proactive approach is implemented and promoted to realize the principles of social dialogue and integrated labour inspection.²⁴

- Labour inspection can play a key role in promoting decent work and implementing labour standards at the workplace. Close cooperation between labour inspectorates, trade unions, and employers' organizations can be an important and cost-effective means of strengthening compliance.

Achievements to date

The recommendations, which are based on international and Volkswagen standards, can be easily and affordably implemented, and the reviews of suppliers indicate that the recommendations have, in most cases, already been implemented.

Advantages for participants

The main advantage for Volkswagen of participating in this project has been the strengthened connection to the UN Global Compact and the implementation of the Social Charter. Furthermore, the goals of improving quality and productivity in the supply chain and ensuring timely delivery by taking measures to prevent occupational accidents and work-related diseases have been realized, at least in part.

Suppliers enjoy many benefits from their participation in the project. The employees enjoy a safer and healthier work environment. The suppliers receive free consultations to optimize processes, which lead to a better quality of life, higher economic productivity, and improved health and safety at the workplace. In the long term, the occupational safety risks will be reduced, leading to fewer accidents, fewer work-hours lost, reduced costs, higher motivation in the workforce, and increased competitiveness for the suppliers. In order to establish and implement occupational health and safety programmes at the national level, active participation of national labour inspectors with a project-oriented training programme is important.

Challenges and lessons learned

One of the primary challenges so far has been to form a team of experts from varying backgrounds. Explaining the project to the suppliers and persuading them to participate has also been a challenge. The preparatory workshops held in each country proved to be successful in providing all suppliers with the same information regarding the project, but it was also important for Volkswagen, ILO and GTZ to see and understand each country's specific needs and conditions. Other challenges were quickly dealt with and appropriate solutions were found. For example, when the Brazilian government withdrew its participation in the audits on short notice, Volkswagen and the partners were able to make alternative arrangements via e-mail and telephone.

Final remarks

Professional competence, cooperation, support and open communication are essential elements of a good OSH programme. The lessons from participation in the project thus far will influence Volkswagen's Occupational Safety audit system.

Volkswagen's experience described in this study confirms that cooperative behavior and communication improves collaboration between governments and companies. When there are irregularities and problems with OSH issues, SMEs need support from the government officials.

The outlook for the remaining part of the project is very promising. The initial audits conducted demonstrate that the suppliers are willing to accept the recommendations. The follow-up visits that have taken place show the recommendations are already well on their way to being fully implemented.

ANNEX 1 Inspection checklist

Part 1

What is the condition of workplaces?
In what state are the exterior spaces/
floors and storage areas?
Are there any notices displayed regarding
occupational safety issues? How would
you rate this information?
Are escape routes, emergency routes and
rendezvous points marked?
Are the escape and emergency routes
kept clear?
Is personal protection equipment in
place?

Part 2

Are there instructions on working
safely and are they actually adhered
to (hazardous substances, in particular
machines and plants)?
What is the condition of the storage facil-
ity (e.g. stacking height)?
Are defective containers used?
Is production material located at the
workplace?
Is the safety equipment sufficiently safe?

Part 3

Are areas with particular hazards la-
belled with warning or prohibition
signs (e.g. warnings about explosive
substances, hazardous substances or
smoking bans)?
Are areas in which personal protection
equipment (e.g. eye protection) is re-
quired marked in an appropriate way?
What is the condition of transport vehicles
(e.g. elevating trucks and forklift trucks)
and how are they used?

Part 4

Are critical process variables (substance
concentrations, pressure, fill levels,
temperature, etc.) recorded (e.g. qual-
ity, occupational safety and environ-
mental protection)?
Are critical process variables monitored
by the plant operator, and is it pos-
sible to intervene?
What is the condition of social rooms
(e.g. washrooms, toilets and lounges)?

How is the safety-conscious behaviour of
employees rated?

Part 5

How ergonomically are workplaces
designed with regard to lighting, air
conditioning, noise, vibration, ambi-
ent air, etc.?
Are work processes designed ergonomi-
cally (e.g. with regard to working
posture, work routes, lifting and car-
rying)?

ANNEX 2 POC questionnaire

Responsible Chief Executive Officer (Chief, CEO) - Part 1

In your company, who is responsible for
occupational health and safety?
What are your specific tasks with respect
to occupational health and safety?
Do internal or external experts provide
your company with support in regard
to occupational health and safety?
Do you investigate hazards at the work-
place?
Do employees have information about
hazards at the workplace?

Responsible Chief Executive Officer (Chief, CEO) - Part 2

When was the last process and quality
audit specified by Volkswagen carried
out and what was the result?
Have work accidents occurred in your
company?
How often are your employees sick?
Is advice on specific health topics avail-
able to employees?
Are regular occupational health and
safety inspections carried out in your
company?
In your opinion, are there ways in which
occupational health and safety protec-
tion in your working environment can
be improved?

Operational managers (senior manage- ment) - Part 1

In your company who is responsible for
occupational health and safety?
What are your specific tasks in respect of

occupational health and safety?
Do internal or external experts provide
your company with support with
respect to occupational health and
safety?
Who is your contact person for matters
relating to occupational health and
safety?
Do you investigate hazards at the work-
place?
Do employees have information about
hazards at the workplace?

Operational managers (senior manage- ment) - Part 2

If you notice opportunities to improve
skills, and manufacturing and work
processes, what do you do?
Have work accidents occurred in your
company?
Are regular occupational health and
safety inspections carried out in your
company?
In your opinion, are there ways in which
occupational health and safety protec-
tion in your working environment can
be improved?

Personnel (employee)

Are there hazards at your workplace?
Have you been informed about hazards
at your workplace?
If you notice opportunities to improve
skills, and manufacturing and work
processes, what do you do?
In your opinion, are there ways in which
occupational health and safety protec-
tion in your working environment
could be improved?

Occupational safety (Occupational Safety Manager)

In your company who is responsible for
occupational health and safety?
What are your specific tasks with respect
to occupational health and safety?
Do you investigate hazards at the work-
place?
Do employees have information about
hazards at the workplace?
If you notice opportunities to improve
skills, and manufacturing and work
processes, what do you do?

Are regular occupational health and safety inspections carried out in your company?

In your opinion, are there ways in which occupational health and safety protection in your working environment can be improved?

Medical personnel, company doctor (Medical)

Do you investigate hazards at the workplace?

Do employees have information about hazards at the workplace?

If you notice opportunities to improve skills, and manufacturing and work processes, what do you do?

In your opinion, are there ways in which occupational health and safety protection in your working environment can be improved?

Workers representative (Union)

Do internal or external experts provide your company with support with respect to occupational health and safety?

If you notice opportunities to improve skills, and manufacturing and work processes, what do you do?

Have work accidents occurred in your company?

Are regular occupational health and safety inspections carried out in your company?

In your opinion, are there ways in which occupational health and safety protection in your working environment can be improved?

Endnotes

- 1 Volkswagen Sustainability Report 2005–2006, p. 4.
- 2 Volkswagen Interim Report, January–September 2006.
- 3 ILO: Facts on SafeWork.
- 4 Effective labour inspection is vital in implementing international labour standards at the enterprise level and in promoting good governance at work. See, for example, Dr Sameera Al-Tuwaijri, "Strategies and Practices for Labour Inspection—ILO Governing Body, November 2006," International Labour Office, Geneva, ISBN 978-92-2-120392-6.
- 5 For more information on occupational health and safety as a human rights issue, see, for example, Ilise Levy Feitshans "Occupational health as a human right" available at <http://http://www.ilocis.org/en/default.html>.
- 6 Rules of the Game: A brief introduction to international labour standards, see: <http://www.ilo.org/publish/english/standard>.
- 7 Volkswagen Sustainability Report 2005/2006, p. 7.
- 8 "Decent work means productive work in which rights are protected, which generates an adequate income, with adequate social protection. It also means sufficient work, in the sense that all should have full access to income-earning opportunities. It marks the high road to economic and social development, a road in which employment, income and social protection can be achieved without compromising workers' rights and social standards. Tripartism and social dialogue are both objectives in their own right, guaranteeing participation and democratic process, and a means of achieving all the other strategic objectives of the ILO. The evolving global economy offers opportunities from which all can gain, but these have to be grounded in participatory social institutions if they are to confer legitimacy and sustainability on economic and social policies." Decent Work, Report of Mr. Jean Somavia, ILO Director-General, 87th session of the International Labour Conference, 1999. See <http://www.ilo.org/public/english/dialogue/actrav/genact/employmt/decent/index.htm>.
- 9 The Social Charter can be viewed online, including at: http://www.imfmetal.org/main/files/Sozialcharta_eng3L.pdf.
- 10 Global Compact: Emergence, Future, Responsibility, p. 5.
- 11 The Group Guidelines are available at <http://www.volkswagen-sustainability.com>.
- 12 Group Guidelines, p. 1.
- 13 The text of the policy is available at <http://www.volkswagen-sustainability.com>.
- 14 More information can be found at <http://www.enwhp.org>. The same website notes that "At Volkswagen AG a 1% rise in the health rate led to a corresponding increase in productivity costs of 1%. This represents savings amounting to € 45 million. By implementing health promotion measures, the company has increased the health rate between 1988 and 1999 by 4.3% achieving savings in personnel costs of over € 190 million."
- 15 See further www.gtz.de/social-ecological-standards.
- 16 ILO's website regarding the project: http://www.ilo.org/public/english/protection/safework/li_suppliers/about/index.htm.
- 17 The full text of the inspection checklist can be found in Annex 1.
- 18 The full text of the POC questionnaires for each interview partner can be found in Annex 2.
- 19 http://www.ilo.org/public/english/protection/safework/li_suppliers/prevention/index.htm.
- 20 As of January 2007.
- 21 Competence Network NRW. More information on the system is available on <http://www.komnet.nrw.de/index.php>.
- 22 http://www.ilo.org/public/english/protection/safework/li_suppliers/prevention/index.htm.
- 23 http://www.ilo.org/public/english/protection/safework/li_suppliers/about/lesson.htm.
- 24 G.Albracht: "Integrated labour inspection systems: The strategy of the ILO," in Labour Education, No. 140.

Table of human rights issues addressed

Human rights issues addressed	Case study
Access to medicine	AREVA
Child labour	Asocolflores, MAS
Collective action	Achilles, Asocolflores
Complicity	Newmont, Sasol
Diversity and/or non-discrimination in employment	AREVA, Asocolflores, Barloworld, Eskom, Sasol Starbucks, Titan
Fair labour practices	NIKE
Forced labour	Ketchum, NIKE, Starbucks
Freedom of association/collective bargaining	Asocolflores, Barloworld, NIKE, Novartis, Starbucks
HIV/AIDS	AREVA, Barloworld, Sasol
Human rights and the environment	ABB, Newmont, Starbucks, Westpac
Human trafficking	Ketchum
Indigenous people's rights	Newmont, Westpac
Living wage	Asocolflores, Novartis, Starbucks
Occupational health and safety	Asocolflores, NIKE, Starbucks, Volkswagen
Privacy	AREVA, Sasol
Resettlement and compensation of affected communities	ABB, AngloGold Ashanti, Newmont, Sasol
Right to education	Barloworld
Right to food	BASF
Right to health	BASF, Ipek
Security and conflict	ABB, Newmont, Shell
Social investment and community development	ABB, AngloGold Ashanti, AREVA, BASF, Barloworld, Ipek, MAS, Newmont, Sasol, Titan
Sphere of influence	AngloGold Ashanti, AREVA, Newmont, NIKE, Novartis, Sasol, Starbucks
Supply chain	Achilles, Asocolflores, Eskom, NIKE, Starbucks, Volkswagen
Trade union rights	Asocolflores
Women's rights	MAS
Working conditions	Barloworld, MAS, Volkswagen
Working hours	Asocolflores

Table of human rights management practices discussed

Human rights management practices discussed	Case study
Getting started	ABB, Achilles, AngloGold Ashanti, AREVA, Asocolflores, Barloworld, BASF, Eskom, Ipek Kagit, Ketchum, MAS, NIKE, Novartis, Sasol, Volkswagen, Westpac
Strategy	ABB*, Achilles, AngloGold Ashanti, AREVA, Asocolflores, Barloworld, BASF*, Eskom, Ipek Kagit*, MAS, NIKE*, Novartis, Sasol*, Shell*, Volkswagen, Westpac
Policy	Achilles, AREVA, Asocolflores, Barloworld, BASF, Eskom, Ketchum, MAS, Newmont, NIKE, Novartis, Sasol, Starbucks, Volkswagen, Westpac
Processes and procedures	Achilles, AngloGold Ashanti, AREVA, Asocolflores, Barloworld, BASF, Eskom, Ipek Kagit, Ketchum, MAS, Novartis, Sasol, Shell, Starbucks, Titan, Volkswagen
Communications	ABB, Achilles, AREVA, BASF, Ketchum, MAS, Sasol, Shell, Volkswagen, Westpac
Training	BASF, Ketchum, MAS, Sasol, Shell, Volkswagen
Measuring impact and auditing	Achilles, Asocolflores, BASF, Ipek Kagit, Newmont, NIKE, Novartis, Sasol, Volkswagen
Reporting	BASF, Newmont, NIKE, Novartis,

Table of human rights standards, tools and initiatives mentioned (beyond the UN Global Compact)

Human rights standards, tools and initiatives mentioned (beyond the UN Global Compact)	Case study
Business Leaders Initiative on Human Rights	ABB, AREVA, BASF
CERES	NIKE
Council for Responsible Jewellery Practices	Newmont
Danish Institute for Human Rights Compliance Assessment	Sasol
Danish Institute for Human Rights Country Risk Assessment	Shell
Danish Institute for Human Rights Quick Check	Shell
Draft UN Norms for Transnational Companies	ABB
Equator Principles	Sasol
Extractive Industries Transparency Initiative	AREVA, BASF, Newmont
Fair Labor Association	NIKE
Flower Label Program Code of Conduct	Asocolflores
Fund for Peace Human Rights and Business Roundtable	Newmont
Global Alliance for Improved Nutrition	BASF
Global Business Coalition on HIV/AIDS	AREVA, BASF
Global Reporting Initiative	ABB, Achilles, Barloworld, Newmont, NIKE, Westpac
Global Responsible Leadership Initiative	Barloworld
Global Sullivan Principles	Newmont
ICMM 10 Principles of Sustainable Development	Newmont
IFC's Performance Standard on Involuntary Relocation	AngloGold Ashanti
ILO Standards and Conventions	Asocolflores, Novartis, Volkswagen
Institute of Social and Ethical Accountability AA 1000	Newmont
International Covenant on Civil and Political Rights	Sasol, Shell
International Covenant on Economic, Social and , Cultural Rights	BASF, Sasol, Shell
ISO 14000	Asocolflores
ISO 14001	Newmont
Milieu Programma Sierteelt (MPS) Certification Program for the Cut-Flower Industry	Asocolflores
Millennium Development Goals	Ipek
Multi-Fiber Agreement	NIKE
OECD Guidelines	Novartis
OECD Guidelines for Aid Agencies on Involuntary Displacement and Resettlement in Developing Projects	AngloGold Ashanti
OHCHR Briefing Paper, The Global Compact and , Human Rights: Understanding Sphere of Influence and Complicity	Sasol
OHSAS 18001	Newmont
Partnering Against Corruption Initiative	Newmont
Universal Declaration of Human Rights	Barloworld, Ipek, Newmont, Novartis, Sasol, Shell, Westpac
Voluntary Principles on Security and Human Rights	Newmont, Shell
World Bank Guidelines on Involuntary Resettlement (OP/BP 4.12)	AngloGold Ashanti
World Bank policies and procedures	Sasol

The ten principles of the United Nations Global Compact

HUMAN RIGHTS

- Principle 1 Businesses should support and respect the protection of internationally proclaimed human rights; and
- Principle 2 make sure that they are not complicit in human rights abuses.

LABOUR

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

ENVIRONMENT

- Principle 7 Businesses are asked to support a precautionary approach to environmental challenges;
- Principle 8 undertake initiatives to promote greater environmental responsibility; and
- Principle 9 encourage the development and diffusion of environmentally friendly technologies.

ANTI-CORRUPTION

- Principle 10 Businesses should work against corruption in all its forms, including extortion and bribery.

