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CONFERENCE

NEWS

Corporate Social Responsibility and Development: Towards a New Agenda?

*Report of the UNRISD Conference
17–18 November 2003, Geneva*

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Overview

Rapid growth in the number and size of transnational corporations (TNCs), their global reach and their visibility in people's daily lives have heightened societal concerns about their social, environmental and developmental impacts. In response, an increasing number of companies are adopting a range of voluntary initiatives associated with improvements in working conditions, environmental performance, and company relations with workers, consumers, local communities, activists and other stakeholders. At the core of this "corporate social responsibility" (CSR) agenda are specific policies and practices involving codes of conduct, environmental management systems, stakeholder dialogues, community investment and philanthropy, as well as reporting, auditing and certification related to social and environmental aspects. In contrast to earlier decades, regulatory responsibility has shifted, to some extent, from state institutions to companies, business associations and civil society organizations (CSOs).

As the CSR agenda has gathered momentum, so too has an international debate regarding its merits and limitations. The United Nations Research Institute for Social Development (UNRISD) has been particularly concerned with its developmental impacts and implications. As concerns have mounted, there have been increasing calls for regulatory approaches that emphasize cor-

porate accountability, binding regulation and international law to control TNC activities.

To examine these issues, UNRISD organized the conference that is the subject of this report, attracting 200 participants mainly from United Nations (UN) agencies, CSOs, research centres and the CSR service industry. The conference had four main objectives:

- to present findings from UNRISD¹ and other research on the developmental implications of CSR policies and practices;
- to consider the potential and limits of new types of relations with TNCs involving public-private partnerships and non-governmental systems of regulation;
- to discuss the substance and significance of recent proposals, demands and campaigns calling for "corporate accountability"; and
- to examine the role the UN is playing, or should play, in the emerging corporate accountability agenda and international regulation of TNCs.

¹ Since 2000, UNRISD has co-ordinated an international project, Promoting Corporate Responsibility in Developing Countries: The Potential and Limits of Voluntary Initiatives, involving research in seven developing countries and thematic studies on TNC regulation, the corporate accountability movement and public-private partnerships. This work, and the conference itself, were partially funded by the MacArthur Foundation.



This report summarizes the presentations, discussions and debates in terms of four areas of analysis: the developmental implications of CSR; the assessment of multistakeholder initiatives (MSIs) and public-private partnerships; corporate accountability and the regulatory role of the UN; and future directions for the CSR agenda.²

The conference discussions revealed that a particular discourse and selected voluntary initiatives have, indeed, taken off during the past decade. But presentations from researchers examining the scale and impact of CSR in developing countries questioned the number of enterprises seriously engaged, the way CSR policies are imposed on developing countries through TNC supply chains, and the fact that certain key development issues are still largely ignored in the mainstream CSR agenda. These issues include poverty reduction, tax avoidance, transfer pricing and corporate lobbying for regressive policies, as well as the limited capacity of many micro, small and medium-sized enterprises (SMEs) to raise standards and compete with TNCs.

New types of regulatory institutions, involving so-called MSIs or non-governmental systems of regulation that set standards and promote company reporting, monitoring, auditing and certification, have attempted to address some of the limitations associated with voluntary approaches to CSR. Some such initiatives constitute innovative forms of regulation adapted to the new realities of globalization and global democratic governance. Yet their future role as effective regulatory institutions is uncertain, given their cost and complexity, and their tendency to multiply, diverge and compete. Various participants called for a more co-ordinated approach, greater emphasis on complaints procedures and sensitivity to the reality of SMEs in developing countries. The process of designing and implementing voluntary and multistakeholder initiatives must also become more participatory in various respects: being more “bottom-up” as opposed to “top-down”; involving stakeholders from developing countries in CSR policy making and

implementation; engaging CSOs that are truly representative of key stakeholders, such as workers; and endeavouring to improve not only working conditions, but also workers’ rights and empowerment.

Recent demands and proposals promoting corporate accountability and legalistic approaches to regulation were seen by some conference participants as an important corrective to the emphasis of the past two decades on deregulation and weaker forms of voluntary initiatives. These new approaches also attempt to ensure that key issues related to corporate power, privilege and duties—often ignored in CSR discourse and policy—are addressed. However, considerable challenges are faced by the emerging corporate accountability movement and the Northern non-governmental organizations (NGOs) that have assumed a leading role. Not least, they involve mobilizing support and overcoming resistance by building broad-based coalitions that include trade unions and Southern CSOs, as well as allies in government, political parties and business.

Conference presentations by several UN officials and others highlighted the eclectic nature of the regulatory role of the UN vis-à-vis TNCs. The Global Compact generated considerable debate, with some participants seeing it as a useful forum for dialogue and learning, and others concerned that both the Compact and UN-business “partnership” initiatives have crowded out the consideration of more effective regulatory approaches, and done more to legitimize TNCs and facilitate their business activities in developing countries than to fundamentally improve their social and environmental performance. The recently drafted United Nations Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights were generally viewed in a positive light, but there was considerable uncertainty regarding their political future. The conference discussions gave rise to various proposals for regulatory reform, including the effective implementation of existing UN norms and instruments; using the procurement power of the UN to promote CSR; strengthening the monitoring and investigative role of UN bodies; and embarking on the longer-term task of developing a comprehensive global regulatory infrastructure to deal not only with labour, consumer and environmental protection, but also with taxation and competition.

A recurring theme throughout the conference centred on the fact that the scope, scale and quality of

² As a means of providing a more comprehensive report of this UNRISD conference, this document is organized by themes and issues, rather than according to the actual progression of presentations and discussions on the meeting’s agenda (see pages 24 and 25). In this format, which attempts to provide more analysis, the main points or recommendations of speakers are dispersed throughout the report.

The papers and presentations of the event’s main speakers are available at www.unrisd.org.

CSR essentially depend on the institutional and political contexts in which companies operate. Despite some tendencies within the CSR movement to see voluntary approaches as an alternative to government regulation and law, the discussions highlighted the crucial role of public governance—involving government policy, civil society activism, international regulation and rights-based institutions—in shaping effective CSR practices, as well as the need to better articulate voluntary and legalistic approaches. They also emphasized the need for CSR policy makers and practitioners to be more sensitive to the developmental impacts of TNCs, and the priorities and realities of developing countries.

I. CSR and Development

The considerable groundswell of support for CSR from governments, international agencies and some sectors of civil society and business suggests that there is much to commend CSR from a developmental perspective. As Thandika Mkandawire (UNRISD Director) observed in his opening address at the conference, the discourse and agenda of CSR are now quite different from those of the 1980s, when TNCs and international financial institutions were concerned with “how to accelerate foreign direct investment by freeing up trade and investment, with little consideration of social, environmental and human rights impacts”. Today there is greater recognition of the need to strengthen or create institutions that promote CSR and good governance.

During the past decade, CSR critics and supporters alike have been concerned with the difficulties of scaling up the number of companies actively engaged in voluntary initiatives, and problems of weak implementation of CSR norms. But, as Peter Utting (UNRISD Deputy Director and CSR Research Co-ordinator) explained, the debate about CSR has evolved considerably. While the polemic of the early 1990s—between those who saw CSR as a “win-win” proposition and those who saw it as window-dressing or “greenwash”—still persists, other issues have emerged. Some companies are more proactive about CSR and cognizant of the limits of corporate self-regulation. Critics are concerned not only about whether companies are doing what they say, but also about how they are doing it. And they question whether CSR can really make a significant contri-

bution to development, even if many companies become more engaged.

Country-level impacts

Presentations by researchers from several developing countries revealed that a particular discourse and selected CSR initiatives have, indeed, taken off. They questioned, however, the number of enterprises seriously involved, the way CSR policies are often imposed on suppliers, and the fact that key development concerns—in which TNCs are implicated—are still largely ignored.

South Africa

David Fig (University of the Witwatersrand), explained that certain South African business sectors, mainly comprising large export or globally oriented corporations, are adopting CSR initiatives. But this agenda has not only been characterized by fairly weak implementation of CSR initiatives; it has also failed to address “the real development issues”. Attempts to deal with “the overriding development question”—the social and economic exclusion of black South Africans—through employment equity and black economic empowerment have often benefited those who already had access to skills and capital, and have not had significant impacts in terms of poverty reduction. Food security is another issue that has received little attention. CSR also takes place in a context of double standards where, for example, investment in nuclear energy, genetic modification (GM) technology and aluminium smelters contradict both government and corporate commitments to a sustainable development agenda. This situation, however, is not the sole responsibility of the corporate sector. It is facilitated by the state, which has shifted from a neo-Keynesian to a neoliberal strategy and has failed to enforce environmental regulations. And it is also partly explained by the fact that civil society activism in relation to certain issues is relatively weak.

Mexico

David Barkin (Universidad Autónoma Metropolitana-Xochimilco) noted the very different response of Mexican-based companies in relation to “corporate environmental responsibility” (CER) and CSR. Many large firms, from diverse sectors, are active on environmental issues, particularly eco-efficiency. And a host of organizations, associated with business, government, the non-governmental sector, universities and international bodies, have emerged to promote CER. SMEs

have been less active. CSR issues have been largely confined to the *maquiladora* (export assembly) sector, and have been vociferously raised by consumer and labour groups in the United States (US) and Canada together with Mexican counterparts. In other sectors CSR is often defined narrowly in terms of philanthropy. The lack of attention to CSR issues is largely explained by the regulatory and policy context within which business operates:

Firms come to Mexico for its cheap labour and relaxed administrative framework, and the government is attempting to simplify existing restrictions further and reduce corporate tax burdens. In this political environment it is little wonder that paternalistic systems of corporate charity are accepted as a substitute for social responsibility. ... Environmental issues are a different matter...because of the relatively widely recognized social benefits and the competitive demands for enforcement from trading partners.

China

Monina Wong (Hong Kong Christian Industrial Committee / HKCIC) highlighted the difficulties of generalizing about the effectiveness and impacts of CSR initiatives, given the sectoral variations that exist. In the toy industry, for example, an international campaign involving Hong Kong-based NGOs and trade unions, and international counterparts, has been instrumental in generating some improvements in labour standards. In many other sectors, however, there are few CSR pressures or incentives. In fact, structural conditions associated with the abundance of cheap labour prepared to accept “3D” jobs (those that are dirty, demanding and dangerous); a weak regulatory environment, where labour law is often unenforced; and the lack of freedom of association and collective bargaining mean that “the incentive to not comply is always bigger than the incentive to comply”. Reporting on her own research on working conditions in labour-intensive industries in southern China that form part of international supply chains, Wong referred to three categories of firms. In the first category, “façade CSR” predominates, with many suppliers of some well-known Northern computer companies, for example, constituting “high-tech sweatshops” where neither national labour law nor TNC codes of conduct are implemented. In the second category are those firms whose CSR initiatives can be called “corporate policeman responsibility”; this category includes many toy and apparel manufacturers. CSR initiatives are implemented in a top-

down manner by TNC buyers, costs of compliance are not shared between buyers and suppliers, and workers are put under pressure not to reveal real conditions to auditors and outsiders. Furthermore, it is difficult for suppliers to sustain improvements in labour standards due to ongoing “race-to-the-bottom pricing” and pressures on delivery times exerted by buyer firms. Wong’s third category consists of CSR initiatives characterized by a bottom-up approach; greater involvement of NGOs in monitoring and complaints procedures; and more attention to workers’ education, training and organization. Some TNCs, such as Nike, are moving in this direction. But this approach is not without its tensions and limits, for example, when it involves efforts “to avoid and preempt real workers’ organizing”.

A narrow agenda

The fact that the mainstream CSR agenda often ignores key development issues that relate to TNCs was noted by other participants. Utting pointed out a major concern in this regard:

the dominant agenda has tended to focus on fairly narrow aspects of social and sustainable development and has ignored some of the basic issues to do with corporate size, power and policy influence; the negative effects of labour market flexibilization and economic liberalization; unsustainable investment and consumption patterns; and perverse fiscal and pricing practices.

Some of the fundamental determinants of maldevelopment, poverty and inequality do not figure prominently, if they figure at all, on the mainstream CSR agenda.

Deborah Doane (New Economics Foundation / NEF) noted that CSR should be about “how we solve some of the bigger global problems of our times that have to do with market systems”, rather than simply what business can do to get a leading edge through social and environmental initiatives. “[CSR] is quite good for the leaders, but there [are] problems with the laggards”, which require certain types of regulation. Ann Zammit (independent consultant) noted that “if we are talking about development and eliminating poverty, then one has to take into account the policy environment” and the way corporations have shaped a macro policy regime that can have perverse developmental effects.

Halina Ward (International Institute for Environment and Development / IIED) noted that CSR can have

negative developmental impacts due to the way in which costs and benefits are allocated, sometimes penalizing developing country firms and benefiting dominant players. “Have we unwittingly created an agenda that plays into the hands of big business by calling for higher and higher standards that the base can’t meet?”

The issue of taxation prompted several commentaries from panellists and participants. The underlying concern was that the CSR agenda often ignores issues of taxation. Eddy Rich (Department for International Development / DFID) noted:

I am a bit surprised to hear again a discussion on CSR and development that spends a lot of time discussing things like codes of conduct, health and safety and labour standards, when in fact the...biggest contribution that business can make to development is through taxation. ... You have companies spending a lot of time developing codes... [while at the same time] employing an army of accountants to try and avoid paying their full social and economic duty in the places where they operate. ... [T]axation is the way that the government and the private sector can start engaging properly—that is the mechanism for partnership.

Derek Yach (World Health Organization / WHO) observed that the CSR agenda often ignores health issues as well. This is particularly apparent in the case of tobacco companies that are “very proud of their human rights record, their labour standards and their environmental standards. Pity their product kills half of its regular users.” He added that many NGOs and the UN Global Compact have not paid sufficient attention to health issues. If these issues are not addressed, situations will arise where corporations are recognized as socially responsible when, in fact, their core business activities kill or harm people.

Several participants noted that CSR is structurally constrained by the fact that it takes place in a context of neoliberalism and policy frameworks that cultivate business practices that can have perverse developmental impacts. These include subcontracting, fiscal incentives and the downsizing or weakening of the state’s regulatory apparatus. Barkin observed that the problem in Mexico is not the lack of laws, but rather the shift from state inspection and monitoring to “self-compliance”. Referring to Peru, Renato Alva Pino (independent consultant) commented that

given this context, CSR appears more as a way of “decorating” neoliberalism rather than an effective means of allocating or transferring resources for sustainable development.

Florian Rochat (Centre Europe–Tiers Monde / CETIM) observed that the issue of corporate responsibility extends well beyond the factory floor. This is evident not only in relation to subcontracting, which enables companies to externalize risk, but also in relation to the political strategies of corporations to liberalize trade and investment regimes, including agriculture, which threaten the livelihoods of millions of peasant producers.

John Sayer (*Development in Practice*) noted that discussions on CSR tend to pay insufficient attention to the fundamental development issue: how to achieve poverty reduction in developing countries. “And when we do touch on poverty reduction, we seem to do it at the macroeconomic level...[rather than] the micro level.” The challenge is to deal with the impacts of investment and corporate activity on jobs, prices, the affordability of basic goods and services, and social equity.

When looking at CSR from a societal perspective, Judith Richter (independent researcher, and author of *Holding Corporations Accountable*) warned that we need to go beyond the question of labour standards. It is necessary to adopt a broader perspective, starting from a vision of what society and development might look like from the standpoint of human rights and social justice, and from there defining what firms should and should not do.

How broad should the CSR agenda be?

Several speakers introduced a note of caution regarding the tendency or temptation to add more and more issues to the CSR agenda.

John Dunning (University of Reading) argued that CSR needs to be placed within the wider context of the effectiveness of market and extra-market institutions in influencing the goals and conduct of firms. He also asked panellists whether there is, in fact, an optimum agenda, noting that the content and scope of CSR is “very strongly contextually related to firms, stages of development, belief systems and institutional capabilities”. Reminding the conference of the past history of “performance requirements” imposed on TNCs, he noted that burdening companies with more and more

responsibilities can have unintended consequences, and that it is important to focus on incentive structures.

Guy Standing (International Labour Organization/ILO) noted that CSR approaches tend to confuse what *should* be done with what *can* be done. At the company level, CSR needs to start from basics, identifying minimum responsibilities related, for example, to training and hygiene facilities, gradually building up—on the basis of bargaining and capacity—to address issues of “social equity” and employment security, and finally aspects concerning democratic practices within the firm. Measurable outcomes and impacts are also required.

Referring to the experience of promoting company “triple bottom line” reporting, Dwight Justice (International Confederation of Free Trade Unions/ICFTU) also reiterated the need for tangible results. “We seem to be moving into areas of greater and greater intangibility, and it becomes very hard to measure and quantify things in a way that is meaningful and comparable.” There is a tendency to promote reporting “for the sake of it”, rather than reporting that can be tied to some form of accountability, as is being proposed, for example, by the Publish What You Pay campaign, or requiring companies to report on whom they are sourcing from.

Northern bias and Southern realities

Various speakers observed that the CSR agenda is heavily influenced by Northern concerns, priorities and perceptions about development in the South. David Murphy (New Academy of Business) presented the findings of case studies and projects carried out in several developing countries to bring new and diverse Southern perspectives to debates about CSR. “Most current CSR debates are framed at the international organization or Northern country level with little attention to many of the particular issues and concerns of Southern stakeholders.” Home-grown CSR initiatives and approaches, generally involving micro and small enterprises, receive relatively little attention in the international CSR discourse, debates and literature, as compared to the initiatives of large corporations.

Lorraine Ruffing (United Nations Conference on Trade and Development/UNCTAD) noted that in many countries SMEs are often excluded from public-private sector dialogues on CSR, given their relatively weak participation in chambers of commerce. Governments

often design their SME policy in a top-down manner and do little to promote dialogue with this sector. Other constraints also impede SME participation in CSR initiatives. Referring to a public-private partnership to promote cleaner production in the tanning industry in Mexico, Barkin observed that red tape and opposition from larger corporations make it extremely difficult for SMEs to access the credit they need to be able to participate. He noted that chambers of commerce associated with some industrial sectors are dominated by large enterprises that can block the flow of benefits to small enterprises:

So the question isn't simply how to get entrepreneurs [interested in CSR], but how to deal with the unequal exercise of political and economic power that is preventing international programmes from effectively working at the SME level.

Asif Hasnain (United Nations Industrial Development Organization / UNIDO) observed that unless enforceable regulatory frameworks are in place, local politics can easily undermine the implementation of CSR initiatives.

Contradictions in CSR activism

Several speakers and participants were concerned about the apparent bias in the mainstream CSR agenda toward large TNCs and labour standards in their core enterprises when much of the working population in developing countries is unemployed and underemployed, and when employment and business are heavily associated with the self-employed, micro and family enterprises.

Ajit Singh (University of Cambridge) noted that in India and most other countries, the vast majority of the working population is in the informal sector. He was concerned that the CSR agenda, and some North American activists in the anti-sweatshop movement, had not fully taken this fact on board; nor had they understood the developmental implications of their efforts to improve formal sector labour standards and labour rights associated with freedom of association and collective bargaining. Enforcing higher labour standards in a situation of mass unemployment would serve to reduce employment. “Increasing the demand for labour in both the rich and poor countries would be a much better way of increasing labour standards.” More attention also needs to be focused on basic issues of poverty reduction, the prevention of hunger and raising labour standards in the informal sector.

Particularly important is the need to reverse the trend of the past 20 years whereby “developing countries have been deprived of policy autonomy” to deal with issues such as foreign direct investment (FDI) and financial flows. “The anti-sweatshop movement should partly change its focus and ask people in the US treasury and in Wall Street what *they* are up to.” Singh also emphasized that achieving high rates of economic growth is essential for development. In response to a question about the possible negative implications of a high-growth strategy for sustainable development, he noted that the only way out of this dilemma is to change consumer preferences from products and methods of production associated with polluting activities to those that do not pollute or that pollute less. The considerable ability shown by Northern anti-sweatshop activists in changing consumer preferences in the footwear and apparel sectors could be extended to the environmental field.

The contradictory effects of some types of anti-sweatshop activism were also pointed out by Peter Newell (Institute of Development Studies/IDS), who referred to the unintended consequences of certain efforts to eliminate child labour in Bangladesh. He noted, however, that this was less a criticism of the movement than a reaffirmation that it is the responsibility of the state to deal with the so-called informal sector.

Activist perspectives

Activists involved in the North American and European anti-sweatshop campaigns acknowledged that insufficient attention has been paid to the situation of workers in the subcontracting chain, including home workers. Referring, however, to recent initiatives in North America and Australia, Bob Jeffcott (Maquila Solidarity Network/MSN) noted that this situation is beginning to change. According to Ineke Zeldenrust (Clean Clothes Campaign/CCC), the issue of the informal sector is a major challenge for activists concerned with labour standards. In relation to the garment industry, she identified three issues. First, “even in the so-called formal sector...a lot of workers are, in fact, informally employed” as they have no security of contract. Second, the nature of informality varies considerably throughout the subcontracting chain, and requires different activist strategies. Third, “we need a transformation of the labour movement”, as current trade union structures often cannot address the needs of subcontract labourers and women workers, in particular, who may want to organize on a com-

munity basis rather than in the workplace. Reform in labour law is also needed in many countries because informal workers are not covered by current legislation. Regarding activist strategies, she proposed that the issue of security of employment be placed firmly on the agenda, as had been done with the issues of a “living wage” and freedom of association. It is also important to develop a division of labour that corresponds to the realities of globalization, moving beyond the traditional thinking that divides the world into consumers in the North and producers in the South. Increasingly, production in the garment industry is controlled by TNCs from East Asian countries with supply chains in Africa and Central America. And countries such as India are becoming important consumer markets for companies like Nike and Adidas.

The business case debate

The considerable data that the ILO and others have generated from surveys of firms in developing and transitional countries suggest that there is a positive correlation between good performance on labour standards, equity and democracy, and good economic performance. Given this apparent “business case” for CSR, Standing asked why more firms are not taking CSR seriously. In his opinion “market failure”, associated with lack of information, is an important factor.

Others were less convinced of the so-called “win-win” argument. Justice noted that while some companies are taking the “high road” in terms of CSR, there is not always a business case for doing the right thing.

Sometimes you need rules. ... [A] problem with the CSR agenda is that so much of it is dependent on an almost religious attachment to a business case idea or a faith that contradicts what we have learned about altruism and philanthropy—we can’t depend on it.

In Doane’s view, the market does not necessarily reward good behaviour:

there are a plethora of examples where the opposite would seem to be true. ... [C]ompanies ... have to make ends meet and in hard or ‘ruthless’ times, profits must ultimately override any altruistic concerns for society or the environment.

The recent withdrawal of Littlewoods from the Ethical Trading Initiative (ETI) is one example. The pressures to compete can also fuel a race to the bottom, as evidenced in the pressures on companies to relocate their sourcing of garments from Sri Lanka to China.

II. New Relations with TNCs

A second set of issues addressed at the conference concerned the potential and limits of new types of relations that have emerged in recent years between TNCs and other corporate interests, on one hand, and non-governmental and international organizations, on the other. Two panels focused specifically on public-private partnerships and MSIs associated with standard-setting, company reporting on social and environmental aspects, monitoring, auditing, certification, and stakeholder dialogue and learning. These panels addressed the following kinds of questions.

- Are these new institutional arrangements an effective means of deepening and scaling up CSR?
- Are they overcoming the problems and limits that characterize corporate self-regulation?
- Can they move from the current phase of pilot testing and experimentation to become a new global system of regulation of corporate activity?

Dara O'Rourke (University of California-Berkeley) noted the rapid expansion of "non-governmental systems of labour regulation" in various sectors and the lack of serious analysis of their role and impact. The growth of these initiatives reflects not only an attempt to go beyond traditional regulatory approaches, but also changes in global production processes.

As networks of production extend out along increasingly complex supply chains, interested stakeholders are exploring systems of dispersed but interconnected regulation over production. These emerging regulatory systems are almost as complex as the supply chains they seek to monitor.

Standards, procedures and governance arrangements vary considerably, in some cases involving an advanced form of "privatized regulation" (for example, World-wide Responsible Apparel Production / WRAP), in others "collaborative regulation" (for example, the ETI, the Fair Labor Association / FLA, and Social Accountability International / SAI), and in others a "fire alarm" or "socialized" model of regulation, involving new mechanisms of corporate accountability and worker empowerment (for example, the Worker Rights Consortium / WRC). These systems are currently in an experimental phase. Potentially, they can

complement government legislation and constitute an important response to the adverse impacts of globalization. To do so, however, they need to evolve toward more credible, transparent, accountable and democratic systems, and they need to connect in some interoperable way so that they complement and reinforce each other. The danger is that rather than converging toward more complete and democratic regulatory systems, they will "diverge into a plethora of initiatives competing for the hearts and minds of consumers, serving only to confuse the public and undermine the credibility of non-governmental initiatives". Evaluating these initiatives on the basis of criteria associated with legitimacy, rigour, accountability and complementarity is, therefore, crucial.

Zeldenrust also referred to the genesis of MSIs, emphasizing their intended role as instruments and institutions that could address two fundamental problems: the limits of corporate self-regulation, and the "regulation gap" that has resulted from the fact that local and national governments, as well as international organizations such as the ILO, lack "teeth" and enforcement capacity. MSIs should also be seen in relation to the fact that trade unions are often repressed or weak; and suppliers, constrained by their relations with retailers and TNCs, have little room for manoeuvre when it comes to meeting workers' demands. A defining characteristic of MSIs is their engagement with NGOs and trade unions, although "the type of engagement varies considerably", with some (for example, the ETI and the Fair Wear Foundation / FWF) but not all (for example, the FLA) having tripartite boards. Regarding the experimental nature of MSIs, this should be seen more as an ongoing feature rather than a phase, "given the inherent risks and the many mistakes that have been made".

Stakeholder representation and influence

Who are "stakeholders", and how credible and democratic are stakeholder dialogues? The discussions on MSIs raised questions about the appropriateness of the stakeholders involved, as well as their relations and relative influence. One concern centred on relations between NGOs and trade unions. Jan Aart Scholte (University of Warwick) observed that, historically, these have been subject to a number of tensions. Justice questioned the role of NGOs in representing workers' interests. He noted two fundamental problems: first the tendency to "treat NGOs and stakeholders as if they are the same thing when, in

Box 1

CHALLENGES FACING MSIs

There is a need to:

- translate the considerable activity on CSR codes at the international and policy level into “substantial change on the ground”;
- move beyond the first tier of the supply chain;
- focus more on “rights-based issues”, like freedom of association, to complement the focus on more “visible issues, like health and safety”;
- improve the quality of monitoring and verification, reduce the reliance on traditional auditing methods employed by large auditing firms, and develop local expertise;
- adopt a more sectoral, rather than company-specific, focus, and enhance co-operation among the MSIs, “structured around an actual work programme on specific issues rather than endless debates at the institutional level”;
- enhance the credibility of MSIs through the representation of NGOs and trade unions in both international and local governance structures, as well as the involvement of organizations that are truly representative of workers, Southern NGOs and trade unions, and suppliers;
- develop worker training and education programmes and complaints procedures;
- involve more companies; to do so, however, “they will have to be pushed” by civil society, governments and the academic community;
- see MSIs not simply as instruments to fill the “regulation gap”, but as a way “to transform the traditional regulatory framework so that it can address the massive labour problems in global supply chains in a manner that is transparent and democratic, and that gives space to workers and their organizations to advance their own interests”.

Source: Zeldenrust

fact, they are not”, and for NGOs to act as surrogates for certain stakeholders; and second, for business interests to organize themselves as NGOs and claim to be part of civil society. Meanwhile, legitimate constituents of civil society, such as trade unions, are sometimes marginalized and bypassed.

Zeldenrust stressed the importance of including both NGOs and trade unions in the governance structures of MSIs, as has occurred in the case of the CCC, the FWF and the ETI. She noted, however, that in the garment sectors of many countries, where women workers predominate, it is difficult to consolidate NGO-trade union relations, particularly where trade unions are not allowed, where they are corrupt, or

“where existing trade union structures are not gender sensitive”. Referring to the experience of the CCC, she recognized the difficulties involved but stressed that such problems are often more complicated in theory than in practice: “the key lies in quickly moving these things out of the talk shop and into the reality on the ground, and to see where you can and can’t work together”.

Doane pointed out that some MSIs, such as the Marine Stewardship Council (MSC) and the Forest Stewardship Council (FSC), have been fairly successful in initiating multistakeholder dialogues, but their progress is often constrained by the fact that they do not recognize the differences of power in those rela-

tionships. Dan Gallin (Global Labour Institute) agreed that not all stakeholders are equal, and stressed that the challenge is to create a balance of power. For this reason, the respect and protection of trade union rights is essential.

Another concern related to the classification of business interests as NGOs or “civil society”. In multistakeholder consultations promoted by the WHO, for example, Lida Lhotska (International Baby Food Action Network / IBFAN) noted that “consumer groups and NGOs want to have a separate space from the private sector stakeholders”. Referring to an international conference organized by the Inter-American Development Bank, Justice reported that organizations closely associated with business interests had been presented as representatives of civil society. He also expressed concern that the activities of the Global Compact in many countries do not reproduce the multistakeholder approach that this initiative claims to uphold. At the country level, trade unions are often excluded. The multistakeholder dialogue approach is potentially useful, but the rhetoric is often not translated into practice.

Limits of MSIs and partnerships

Other concerns about MSIs and public-private partnerships were also in evidence at the conference. Doane noted that their capacity to promote social responsibility is fundamentally limited and constrained, because they are based on market principles that assume, incorrectly, that the market will reward socially or environmentally responsible behaviour. In countries such as the United Kingdom, “ethical consumerism” remains stubbornly confined to a small minority of consumers and, like socially responsible investment, has suffered setbacks in recent years. MSIs and partnerships can also impose pressures on NGOs to dilute their principles and normative expectations. Some MSIs have accommodated TNCs by diluting standards and implementation procedures. She cited the withdrawal of the NEF from the ETI, partly due to the requirement of some of the corporate members that NGO members sign a confidentiality agreement if they want to read case studies. “While there is a place for co-operation, this should not mean that NGOs have to give up their role as civic guardians in the process.” Partnerships can complement legalistic approaches but “they are no substitute for adequate legislation”.

The cost of certain MSIs and the complexity of the procedures they promote were also of concern.

Ruffing pointed out that the question of cost, in particular the cost for SMEs, is often ignored in discussions about MSIs. She noted that the International Organization for Standardization (ISO) 9000 certification (for quality management) was often in the order of \$20,000 per certificate. While the costs of social labelling schemes may be lower, they are still considerable. Utting observed that “it is often assumed that costs will be borne by affiliates or SMEs that are part of the value chains of Northern corporations. Far less attention has been focused on the issue of ‘shared responsibility’”. He also noted that scaling up MSIs beyond their pilot or experimental phase is constrained by the sheer complexity of many reporting, monitoring and certification systems that require large amounts of information gathered (i) from stakeholders who may be unable or unwilling to provide it, and (ii) by auditors and others who often lack the skills and methodologies required.

Zammit spoke about the developmental implications of the growing number of so-called partnerships between TNCs and UN agencies. Such partnerships, including the “flagship partnership”—the Global Compact—are often portrayed as pragmatic instruments for mobilizing private sector resources for development, but they raise serious concerns. To assess their developmental impact it is not enough to look at their provision of skills, money, investment, products or services;

their wider implications for developing countries and poverty reduction, [including] their contribution to enhancing developing countries’ own capacities to deal with their problems, ... their impacts on...the concentration of ownership..., national ownership, and the level of competition

must also be examined. In these respects, partnerships can have negative implications. A more fundamental contradiction involves the fact that partnerships can enhance the market power and reputation of large TNCs, as well as conditions for increasing their influence in international policy-making bodies, yet they promote a global policy agenda that many observers claim undermines development in much of the South. The current UN approach to partnerships has not seriously considered these issues, and detailed evaluations of the partnership experience are lacking. This situation needs to be corrected. The Global Compact has, indeed, responded to some criticisms by broadening its focus away from TNCs to

firms in developing countries, and calling on participating companies to report on their implementation of all nine of the principles which the Compact promotes. But given the well-known weaknesses of company reporting on social and environmental aspects, the limited scope for monitoring compliance, and the fact that there is no assessment of whether partnership or CSR activities are compatible with national development and poverty reduction, many questions remain unanswered.

Jens Martens (World Economy, Ecology and Development / WEED) commented that any assessment of partnership initiatives needs to consider not only their direct environmental and social effects, but also their impact in relation to the underlying interests of corporations, including the free market agenda, FDI and macroeconomic effects. Lhotska questioned the level of UN agency co-ordination on CSR and partnership approaches, and the compatibility of such approaches, noting that while the WHO was embarking on multi-stakeholder consultations to define its policy in the areas of health and nutrition, the United Nations Children's Fund (UNICEF) was entering into a fund-raising sponsorship deal with McDonald's, "which, in my view, runs in the face of what the WHO was doing". Craig Bennett (Friends of the Earth, United Kingdom) noted that the sudden burst of partnership proposals at the World Summit on Sustainable Development in 2002 could be seen as a ploy to fight off the threat of regulation, partly evidenced by the fact that many proposals quickly disappeared once the Johannesburg process ended.

III. Corporate Accountability and International Regulation of TNCs

Concerns regarding corporate self-regulation and voluntary initiatives have, in recent years, prompted various proposals and campaigns calling for "corporate accountability" and legalistic approaches to regulating TNCs. In this area, the conference discussions examined three specific questions:

- From a political and developmental perspective, how significant are these proposals?
- Are new international laws and institutions needed, or are existing frameworks and instruments sufficient to curb corporate power and malpractice?

- What role should UN organizations and institutions, old and new, play in the international regulation of TNCs?

Jem Bendell (independent consultant, and co-author of *In the Company of Partners*) identified recent changes in global activism associated with TNCs, in particular the emergence of new coalitions—or what might be loosely called a "movement"—calling for corporate accountability. The fundamental concern of this movement has to do with corporate power and privilege, and their negative impacts on humanity and development. Instead of urging companies to voluntarily give an account of their activities and impacts, the corporate accountability movement demands that corporations be "held to account"—which implies an element of enforceability. Several contexts and trends are creating potential for progress toward corporate accountability, including the following:

- the maturing of the anti-globalization movement into a movement for global democracy in which protest and criticism have been complemented by the search for alternatives and innovative policies;
- the increasing application of human rights law to corporations;
- the impacts of the dot-com bust and accounting scandals on mainstream beliefs in the capacity of Anglo-Saxon capitalism and corporations to deliver development; and
- the recognition of the limits of the "win-win" proposition, and that it might be in a company's self-interest to level the playing field upward to avoid being undercut, if indeed it wants to improve its social and environmental performance.

These contexts and trends have given rise to NGO calls for a stronger framework of corporate accountability, either by testing existing mechanisms, such as the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises, or launching new initiatives, such as the Publish What You Pay and the International Right to Know campaigns. Bendell suggested that strategies for promoting corporate accountability should focus less on devising new instruments and conventions, and more on implementing instruments that already exist. They should also seek to build alliances between NGOs, governments and UN bodies to support instruments such as the UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human

Rights, recently adopted by the United Nations Sub-Commission for the Promotion and Protection of Human Rights.

Bennett outlined the objectives of the corporate accountability campaign that NGOs had launched in the run-up to the World Summit on Sustainable Development in 2002. These include both duties and rights: duties, for example, of company directors related to care for both the environment and stakeholders; and rights of communities to a healthy environment, to decide what business activities should take place in their locality, and the right of redress in cases of malpractice. The rejection of this proposal by business interests, on the basis that an internationally binding framework amounted to an inappropriate “one-size-fits-all” approach, is hypocritical—this is precisely what is proposed when it comes to strengthening the rights of corporations.

The regulatory role of the UN

Presentations by several speakers brought out the diverse nature of UN approaches to regulating large corporations, both in terms of the sheer number of instruments and their approaches. At the “softer” end of the regulatory spectrum are initiatives, such as the Global Compact, that emphasize dialogue and voluntary reporting as key means of cultivating shared values and “corporate citizenship”, and that remind companies of their responsibilities under international labour, environmental and human rights law. Many international human rights agreements constitute international soft law that is applicable to governments, corporations and citizens, but without specifying accountability mechanisms. Other instruments, such as the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, contain provisions for monitoring, complaints and “interpretation”, but some implementation procedures are weak.

Several recent initiatives have paid greater attention to accountability mechanisms. Referring to the UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with regard to Human Rights, Simon Walker (Office of the United Nations High Commissioner for Human Rights / OHCHR) pointed out that, if eventually approved in their current form by the UN Commission on Human Rights, they would constitute a new instrument with some implementation and monitoring

mechanisms. At the “harder” end of the regulatory spectrum are treaty instruments, such as the Framework Convention on Tobacco Control, which, as Yach explained, contain some provisions for liability and compensation. Referring to the Aarhus Convention (Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters), Jeremy Wates (United Nations Economic Commission for Europe / UNECE) explained that the related Kiev Protocol on Pollutant Release and Transfer Registers adopted in 2003 obliges each state party to establish a register to record the releases and transfers of toxic pollutants. This Protocol calls for mandatory reporting by governments which, in turn, must oblige certain industries and sectors to report. “So indirectly it functions as a treaty, which is binding on TNCs.”

Is eclecticism positive or negative?

Views varied considerably on the question of whether the eclectic nature of UN regulation is positive or negative. Scholte remarked that the existing broad range of regulatory instruments, institutions and approaches indicates a somewhat confused state of affairs, problems of co-ordination, and that the UN needs to work toward a more integrated and coherent regulatory infrastructure. Dunning pointed out that in a context where world government does not yet exist, there are obvious limits to international regulation. To deal with globalization, trade and FDI, “you need to establish some sort of ground rules. ... The best we can do at this present juncture is through informal rules, conventions and contracts.”

Cornelis van der Lugt (United Nations Environment Programme / UNEP) also pointed out that the UN is not a world government with a unified position. Rather, it is made up of intergovernmental bodies, which inevitably have different positions, approaches and activities. “We have never been given a mandate by governments to take one particular position.” He noted that UN agencies have the important roles of examining the strengths and weaknesses of different approaches, developing benchmarks and indicators to ensure progress, promoting independent verification when voluntary approaches are adopted, and building capacity to advance the implementation of intergovernmental agreements.

Utting agreed that the UN should play multiple roles, but he stressed the need to maintain a sense of bal-

ance. In practice, the UN is far more active on some fronts than others, paying considerable attention to “best practice learning”, for example, but largely neglecting critical research that exposes and analyses corporate malpractice. Similarly, in recent years more attention has been focused on promoting voluntary initiatives than on the consideration of legalistic approaches.

Richter noted the tendency for voluntary approaches to crowd out legalistic approaches. The idea of launching the Global Compact

took the wind out of the sails of the recommendations of the 1999 United Nations Development Programme [UNDP] *Human Development Report*...[to establish] a binding code of conduct for multinational corporations,

and some of the Compact’s corporate stakeholders are now using the Compact to argue against other regulatory initiatives such as the UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights.

Yach pointed out that different problems require different approaches. Referring to the cases of tobacco and food, he outlined the varied regulatory routes being pursued by the WHO. In the case of tobacco, both corporate self-regulation and national laws had failed and an international treaty had become necessary in the form of the Framework Convention on Tobacco Control, “including liability provisions and the potential use of litigation and compensation”. The regulatory approach recently adopted in the case of the food and beverage sector is different, focusing far more on the promotion of corporate self-regulation and multistakeholder approaches. Some commercial activities, such as marketing to children, need to be tightly regulated; others can be addressed through voluntary approaches.

The Global Compact

What regulatory role should the Global Compact play? Views on this question were sharply divided. Richter suggested that the Global Compact may do less “to hold corporations accountable to the peoples of the world [than to] help corporations rule the world”, and that it should be disbanded. Not only is it crowding out other regulatory options, she said, but its compliance mechanisms are weak and it opens up spaces for TNCs to gain influence in public affairs.

Alison Linnecar (Geneva Infant Feeding Association / GIFA) felt that the Global Compact undermines efforts to promote enforceable national legislation in relation to the marketing of breast-milk substitutes. Instead of legislation that involves monitoring and sanctions, there has been a shift “toward this very ‘touchy-feely’...arrangement that is the Global Compact”. The voluntary approaches promoted by such initiatives facilitate the efforts of Nestlé and some other companies that adopt their own codes instead of complying with the international code or national law.

Dunning stressed that the Global Compact should be seen as an instrument that can strengthen the ground rules for globalization, trade and investment through informal arrangements, and that such a role is important in a context where “world government” and corresponding regulatory instruments do not exist. Justice argued that the potential contribution of the Global Compact is not in establishing rules—“better codes of conduct and rules for companies already exist”; rather it should constitute a forum or mechanism for dialogue between business, trade unions and other stakeholders. Van der Lugt claimed that, given existing governance gaps, the Compact provides a means of engaging non-state players in the implementation of international laws. How exactly this should be done is still being worked out, but it is for precisely these reasons that the Compact is constituted as a dialogue and a learning forum.

Referring to the Global Compact’s role in promoting dialogue, Zammit said that the key issue revolves around *what* the dialogue should be about. Should it centre only on human rights, labour and environmental issues? She noted the quite legitimate calls from some quarters for the inclusion of education, health and other development dimensions. Furthermore, she argued, basic questions about the desirability and purpose of partnerships are also missing from the agenda. Another participant noted that by focusing on the behaviour of individual firms and specific issues such as labour standards, the Compact ignores some of the “wider issues”. In the cocoa industry, for example, there is a great deal of attention to improvements in labour standards in the supply chain, “but not what actually drives commodity prices down and what keeps those labour standards low”.

Box 2

OTHER WAYS TO PROMOTE CSR AND ACCOUNTABILITY

How proactive can UN agencies be in promoting CSR and corporate accountability? In addition to setting norms, and promoting policy dialogue and best-practice learning, other concrete suggestions emerged at the conference.

Follow-up by UN Secretariats

Bendell suggested that UN agencies and officials should be constantly reminding member states of their commitments under international law. Some have already adopted a leadership role in this regard, but others remain far more cautious. Yach agreed that the role of UN agencies and international civil servants needs to be reviewed: "too many agreements...get agreed between member states and that is seen as the end of the road. ... The hope is that the Secretariat will be too weak or too reluctant, or too financially stretched, to do anything with them".

Using the UN's procurement and investigative power

The UN could employ its procurement system to influence business behaviour. Further to a question from George Starcher (European Bahá'í Business Forum) as to whether the UN uses its buying power to promote CSR, Zeldenrust stressed the importance of engaging large institutional buyers, and of developing a UN strategy of purchasing from companies that comply with Global Compact and other principles and norms. The UN "needs to start mapping its own supply chains...if we demand that of any given retailer, I don't see why we shouldn't demand it of the UN system". Drawing parallels with the WRC, she also proposed the establishment of "a whistle-blower complaints mechanism" and an investigative procedure; and, in proven cases of malpractice, the UN should use its leverage to secure improvements in company performance.

Putting information in the public domain

Another proposal centred on greater transparency. O'Rourke suggested that the information generated, for example, by the ILO on standards and practices of specific companies, which is confidential, should be publicly available. "It is critical to move beyond this as an academic and anonymous exercise to something that would allow key stakeholders to evaluate and compare the performance of firms and brands." Standing noted that a proposal is currently being considered to issue certificates of good conduct on the basis of the information acquired through the ILO surveys, which could be used for various purposes, including tendering.

IV. Towards a New Agenda?

Conference discussions on how to construct an agenda that effectively addresses the limitations of CSR and voluntary approaches were wide-ranging, but centred on five sets of issues: the role of institutions; bottom-up and "South-centred" approaches; the need for a more nuanced understanding of the relationship and complementarities between voluntary and legalistic approaches; a new regulatory infrastructure; and the politics of regulatory change.

The importance of institutions

The scope, scale and quality of CSR essentially depend on the institutional and political context in which companies operate.

Dunning observed that patterns of ownership, a firm's access to resources and its capabilities are important, but he emphasized the role of institutions.

It is these norms of behaviour, governance, cultures, conventions and codes of conduct which determine the way in which the firm (and other participants in society) 'play the game'. In a globalizing economy, the CSR of TNCs is especially influenced by the content and quality of their internal institutions and those of the other organizations of global capitalism with whom they have associations.

The implications of this institutional analysis are that (i) the content and quality of CSR are likely to vary considerably by country, sector and firm; (ii) given in-

creasing interconnectivity, cross-border alliances and networks, CSR is being strongly influenced by developments associated with the global institutional infrastructure; and (iii) there are different institutional routes or approaches to CSR. In short, “a ‘one-size-fits-all’ approach is unlikely to succeed”.

Amalia Waxman (WHO) noted various institutional factors underpinning CSR in her comments on the engagement of food and beverage corporations with the CSR agenda and, more specifically, with issues related to diet, nutrition and health. Such factors include increasing pressure from the media, politicians, consumer groups and public health organizations; increasing risk of litigation and pressure from financial institutions; and government and international regulation, or the threat thereof. She noted the evolution of levels and forms of corporate resistance to assuming greater responsibility. Initial resistance—for example, to acknowledging the scale of the problem in developing countries, or recognizing advertising to children as an issue relevant to public health and diet—has declined, and some TNCs are now exploring approaches for dealing with obesity. The preferred approach of business, however, centres on corporate self-regulation as opposed to MSIs or working in tandem with other regulatory approaches. And some companies are not reassessing their business strategies to deal with the challenge of non-communicable diseases and obesity:

[T]he shift in approach required from the industry is to fully recognize that a paradigm shift is needed from seeing diet and physical activity as a personal responsibility, to [seeing these as] a broader responsibility of the community at all its levels.

Referring to Mexico, Barkin argued that progress in relation to corporate responsibility depends crucially on the institutional and regulatory context in which it takes place, and that this context is contingent on whether one is dealing with social or environmental dimensions.

Progress in relation to corporate *social* responsibility will require an alternative government policy that does not sacrifice labour standards for the goal of job creation, or neglect certain regions of the country. Progress in relation to corporate *environmental* responsibility needs to go beyond a narrow eco-efficiency approach and take into account the environmental dangers that result from the changing productive structure that promotes industrialization in the northern arid and semi-arid regions.

Richter was critical of the tendency of many in the CSR community to attribute CSR practices to corporate leadership, without recognizing the broader context, including regulatory and civil society pressures: “it is very important to refrain from giving any credit...without having looked at all the contributing circumstances”.

These and other comments also reminded conference participants of the importance of historical context and analysis for understanding the trajectories and prospects for CSR. Fig brought this out clearly in his presentation on CSR in South Africa. And Hasnain agreed: “we really seem to be suffering from collective amnesia when the latest fashion hits the road”. He recalled that in some Southeast Asian countries *both* the public and the private sectors play an important role in providing social services, such as education. To understand their roles, it is necessary to take on board historical and cultural aspects concerning state-private sector relations, as well as social cohesion and conscience.

Bottom-up and South-centred approaches

Several conference speakers emphasized the role of local actors and institutions, and the need for greater participation of stakeholders from developing countries, in shaping the CSR and corporate accountability agendas. Some noted not only that workers and trade unions need to be more directly involved in CSR decision-making, but also that one of the purposes of CSR should be to empower workers and strengthen workplace democracy.

Murphy stressed this “bottom-up” approach when referring to action-research conducted by the New Academy of Business. The CSR agenda needs to draw far more on developing country concerns, and on existing innovative experiences. “A philosophy of service and solidarity, not patronage, is important for future work on ethical trade.” Codes of conduct require new design and implementation procedures—or “participatory workplace appraisal”—that emphasize the priorities of workers, engage workers in their elaboration and monitoring, and involve incentives from retailers. A project on social marketing in Ghana found that success and sustainability require not only an effective message, but also a multistakeholder approach involving workers; government bodies; local, national and international sponsors; and the use and mobilization of local skills and enterprise. Work in Central America, focusing on ways to involve women

workers in the design and implementation of codes of conduct, found that

codes of conduct are currently failing to meet their potential to improve the lives of many workers because they are not being developed, implemented and monitored in partnership with their intended beneficiaries.

Issues of concern to women workers—such as age and sex discrimination, harassment, freedom of association and collective bargaining—are often included in codes, but are poorly implemented. Implementation and monitoring are currently failing due to limited training of workers and management; the fact that management is forewarned of visits; and little consultation with, and involvement of, workers. In some countries, however, the emergence of local monitoring groups that use participatory workplace appraisal methods seems to be a positive development.

Janelle Diller (ILO) emphasized the importance of encouraging broad-based industry-level partnerships that contribute to the development of local institutions. Referring to the example of an ILO programme to eliminate child labour in the cocoa sector in five West African countries, she noted:

these partnerships can engage enterprises, employers' organizations, unions, co-operatives, governments and related CSOs in programmes that combine globally agreed values, local policies, and monitoring and certification capacities.

Dunning observed that there is a constructive role for both top-down and bottom-up approaches. Top-down initiatives, such as the Global Compact, as well as legislation, are more likely to reduce bad behaviour, whereas bottom-up approaches are more likely to foster good behaviour. At the same time, he recognized that different stakeholders—particularly governments of developing countries—might have different views on the contribution of CSR to their economic and social objectives; and of the appropriate top-down and bottom-up policy and other institutional measures required to achieve these objectives.

Articulating voluntary and legalistic approaches

Various speakers outlined deficiencies in the way the relationship between voluntary and legalistic approaches is currently framed in the mainstream CSR agenda. Justice criticized the simplistic notion that CSR is about going beyond minimum binding norms

through voluntary approaches. Such an interpretation is flawed on various counts. First, it assumes that the realm of what is binding has already been agreed upon, which is not the case. Second, some voluntary initiatives actually constitute a mechanism for redefining responsibilities downward. Third, the distinction commonly made between “voluntary” and “binding” approaches is often misplaced. Societal norms and rules are sometimes enshrined in law and are binding; sometimes they are expressed informally and involve non-binding expectations. But this does not mean that they are “optional”. At the international level, instruments of TNC regulation such as the OECD Guidelines for Multinational Enterprises and the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy are non-binding, but they are not optional; rather, they are “applicable”, in the sense that they apply to all relevant companies.

Richter emphasized that voluntary approaches can be used to suppress the consideration of legalistic approaches, reminding the conference of the findings of the Commission on Global Governance in 1995:

In order to democratize global governance, one of the major tasks is to subject ‘the rule of arbitrary power—economic, political and military—to the rule of law within global society’. It is amazing to see how the discussions about CSR-based initiatives continue to divert attention from the fact that UN member states are neglecting such a crucial part of their mandate.

To address this situation, she said, new attitudes and approaches are required (see box 3).

In relation to calls for stronger regulation, a participant reminded the conference that one of the reasons why the CSR discourse and agenda have taken off in the first place is due to widespread concerns that governments are “not working” and that there is a need to engage other parties. Legal compliance should not be seen as anathema to the business community. In fact, it is an important component of the business case for CSR, along with other aspects such as risk management, brand reputation and human capital development.

Wates noted that many TNCs affected by toxic release and pollution registers in the United States and Europe “ended up welcoming [them] because [they] established a level playing field”. Regulatory approaches, therefore, need not be adversarial.

Box 3 NEW ATTITUDES AND APPROACHES

UN agencies and member states should support an agenda that:

- “create[s] space for open, honest debate on the relationship between initiatives based on so-called corporate social responsibility and approaches which...see [corporations] as actors who have a fiduciary duty to make profit for their shareholders”;
- “discard[s] false dichotomies from documents and UN discourse”—for example, labelling critics of CSR and partnerships as adversaries when they are simply advocating that corporations should be kept at “arm’s length”, and “pitting ‘voluntary’ against legally binding regulations”; and
- support[s] moves to establish binding regulation for TNCs.

Source: Richter

Wong was of the opinion that the only way to avoid the “privatization” of corporate responsibility, and “selective reporting, selective responsibility and selective engagement”, is through a dynamic combination of voluntary and regulatory approaches. The latter include regulation through independent workers’ organizing, regulation through civil campaigns and “naming and shaming”, and regulation by the state, particularly in relation to the implementation of national and international labour law and regulation of investment liberalization.

Mia Horn af Rantzen (Ambassador, Ministry for Foreign Affairs, Sweden) observed that a large number of norms and instruments already exist, and that there is a need to understand how all the different parts of the system work together, which parts work well, which do not, and which legal frameworks and instruments need to be further developed.

The possibilities of articulating voluntary and legal approaches were outlined by several speakers. Ward observed that the scope for articulating voluntary and legal approaches is more favourable today than in the past, partly due to the reassessment of the role of the state as a regulatory institution by key international players such as the World Bank.

Referring to the debates on CSR and the work of the ILO, Diller noted that a “key issue has been how

to build bridges between self-regulation and government policies to ensure that the effects of CSR truly complement national efforts”. To do this, it is necessary to align “the targets within codes, reporting and certification systems, and the criteria adopted by socially responsible investment funds...with [a] universally agreed framework of goals and priorities” to prevent “picking and choosing”. The methods for achieving this consist of social dialogue among “freely chosen representatives of those affected”, accountability mechanisms such as grievance procedures and training, and corrective action and remedies. To be development friendly, CSR needs to contribute to, and not undermine, the development of SMEs, institutions of industrial relations such as labour inspectorates, trade unions that also represent women workers, and social dialogue mechanisms. When assessing the effectiveness and legitimacy of new CSR and corporate accountability institutions, it is important to judge them in relation to three yardsticks. Are they serving to strengthen local institutions? Are the participants those most concerned? Are international standards determining the reference points? These features are fundamental to the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy—“the mother of all CSR benchmarks”—and have also been embraced in the recent work of the World Commission on the Social Dimension of Globalization in its consideration of CSR issues.

Referring to the *World Investment Report 2003 – FDI Policies for Development: National and International Perspectives*, Ludger Odenthal (UNCTAD) outlined the possibilities for linking concerns for “good corporate citizenship” with international investment agreements (IIAs) (see box 4). One of the underlying concerns that has prompted UNCTAD’s work in this area is the fact that the CSR agenda has often sidelined economic development dimensions.

The articulation of voluntary and legalistic instruments may also be said to occur when regulatory mechanisms and institutions are developed in stages. Singh proposed that an “international competition authority” be developed in stages, as a means of making such an authority more politically acceptable. Initially it may have no coercive powers, but simply be able to monitor and report on abuses of dominant market positions and mergers. Over time, nations could work toward greater co-operation by giving this authority more power to enforce its rules.

Dunning observed that informal rules and social conventions often constitute a preliminary phase in the development of regulatory institutions—“a first step”. Scholte also noted that voluntary approaches consti-

tute a stop-gap measure that can play a role, albeit quite limited, until more effective binding approaches can be developed.

The relationship between voluntary and legalistic approaches is also apparent in other respects. The mere threat of legalistic regulation often prompts TNCs to adopt voluntary CSR initiatives. Yach pointed out that this occurred when the WHO was engaged in efforts to establish the Framework Convention on Tobacco Control. “While we were doing this, what were the companies doing? They were embarking on one of the most extensive campaigns to try and recast themselves using the corporate social responsibility language.” Utting noted that some international codes, which are voluntary in the sense that they are neither binding nor prescribe penalties, articulate with legalistic approaches at the national level. The International Code for the Marketing of Breast-Milk Substitutes, for example, calls on governments to internalize its provisions in national law.

The need for a new regulatory infrastructure

Various presentations adopted a more visionary perspective, emphasizing the need for new regulatory

Box 4

EMBEDDING CSR IN INTERNATIONAL INVESTMENT AGREEMENTS

- “Good corporate citizenship principles” could be embedded in international agreements, such as the OECD Guidelines for Multinational Enterprises.
- Bilateral investment treaties could call on companies domiciled in countries that have signed on to the OECD Guidelines to adhere to them.
- The preambles of IIAs could contain references to corporate citizenship objectives; while not linked to operational provisions, “it clearly helps or affects the interpretation of the provisions and the objectives”.
- Some bilateral investment agreements, as well as the OECD Guidelines, could request signatory governments to create procedural obligations and mandatory follow-up mechanisms.
- Legally binding provisions could be incorporated into IIAs, as has occurred in certain areas such as technology transfer.

Source: Odenthal, referring to the *World Investment Report 2003*

bodies to deal with globalization and corporate domination of the global economy, as well as the concern raised by Ward and others that emerging instruments or proposals involving litigation, national legislation, the UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights, and the Global Compact are insufficient or weak.

According to Justice, there is a

big imbalance between global rules...in the economic area and in the social area. Trying to balance intergovernmental agreements concerning property rights with voluntary initiatives...concerning human rights is only going to end in tears.

Singh stressed the major contradictions between the interests of multinationals and those of developing countries that need to be addressed through the creation of new regulatory authorities. A fundamental problem hinges on the principle of national treatment, “which amounts to saying that corporations should have the right to establish any business, anywhere, without any hindrance, unless similar restrictions are imposed on a host country’s firms”. This impedes the capacity of developing countries to strengthen their own firms and to follow the path and policies pursued in the past by today’s developed countries. It can also impede economic efficiency, competition and development, not least through transfer pricing and cartel-type price-fixing mechanisms that have siphoned billions of dollars from developing countries. To address this situation, he said, it is important to establish an international competition authority with powers to prevent multinational firms from abusing their dominant positions and to keep international markets contestable, both now and in the future.

Scholte supported the establishment or strengthening of five regulatory bodies at the international level. In addition to what he called a “global competition (or anti-trust) authority”, they include a global consumer protection agency, a global labour organization, a global environmental organization and a global tax authority. Competition and consumer protection could fall within the remit of the World Trade Organization (WTO), but this organization would need to be integrated into the UN system. He admitted that such proposals are visionary, if not utopian. Their viability depends, to a large extent, on strengthening the capacity,

competencies and democratic credentials of the United Nations and its agencies. Progress toward such a regulatory system also depends on overcoming resistance from both TNCs opposed to regulatory mechanisms that might constrain their activities, and neoliberal state authorities opposed to the construction of social democracy on a global scale and the transfer of authority to global institutions. Furthermore, there is

as yet no strong public constituency to resist this opposition and press for new or upgraded global institutions...few amongst...the so-called anti-globalization and alter-globalization movements...are actively campaigning for the[se] kinds of bodies.

Newell raised the concern that the centralization of decision making in global institutions carries with it the risk that business can “capture” the decision-making process. And given the lobbying influence of TNCs, he asked, is it realistic to suppose that effective regulatory institutions or a corporate accountability convention will ever be approved? This raises the question, therefore, of whether other political processes need to be considered.

Also visionary was Ward’s suggestion that two of the basic tenets of international and company law need to be questioned. One involves the fact that the complex global structure of TNCs makes it very difficult to identify which entity has responsibility for malpractice.

Legal mechanisms and intergovernmental co-operation based on the notion of territorial sovereignty—where governmental jurisdiction mostly ends at national borders—do not match the reality of how TNC networks operate.

The other, she said, relates to

the principle of limited liability, the central organizing notion for the allocation of risk within corporations, [which] generates incentives to allocate risk in ways that leave workers, communities and the environment without meaningful redress. While we see an active debate taking place on international trade rules and sustainable development, no such debate currently exists in relation to company law and its implications for sustainable development.

Talk or action on these fronts is often dismissed as “radical” or is, in the case of the limited liability issue, off-limits entirely. But is it so radical, she asked, to want to find a solution to real-life situations where, for example, a company in the United Kingdom is

Box 5

THE UN NORMS ON THE RESPONSIBILITIES OF TNCs AND OTHER BUSINESS ENTERPRISES WITH REGARD TO HUMAN RIGHTS

"The Norms set out four areas of human rights obligations—the right to equal opportunity and non-discriminatory treatment, the right to security of persons, rights of workers, and respect for national sovereignty and human rights. Further, the Norms include obligations with regard to consumer protection and environmental protection. The Norms also provide for their implementation and have a section on definitions. Key elements of those provisions include:

"**First**, business entities shall ensure equality of opportunity and treatment with a view to eliminating discrimination based on sex, race, religion and other recognized categories of individuals. The principle of non-discrimination is a basic principle of human rights law—international human rights treaties recognize the responsibility of private actors not to discriminate. However the Norms go further and ascribe direct responsibility for ensuring equality and protecting against discrimination.

"**Second**, business entities shall not engage in or benefit from war crimes, crimes against humanity, genocide, torture, forced disappearances, forced or compulsory labour and a range of other abuses of the right of the security of the person. This provision is important given cases at the domestic and regional levels considering the collusion of businesses with the action of security forces in Myanmar and Nigeria.

"**Third**, business shall recognize the right to collective bargaining. While this might seem fairly obvious to a human rights audience, many of the voluntary codes of conduct on corporate social responsibility do not include recognition of collective bargaining—yet from a human rights perspective, this is critical.

"**Finally**, the sections on consumer protection and environmental protection are relatively novel in international human rights law. Significantly, both sections require business to comply with the precautionary principle, which is traditionally a principle of environmental law rather than human rights law."

Source: Walker

obliged to close down health-threatening mercury operations but then relocates these activities to a developing country where health impacts are worse? "There is a rights-based argument and a fundamental point of principle here, but we don't yet have the mechanisms for addressing this."

Human rights law

Regarding the task of developing new regulatory instruments and institutions, various speakers referred to the actual and potential role of the UN human rights machinery and human rights law, in particular the Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights. Walker outlined their content (see box 5) and status, as well as the role of dif-

ferent UN human rights entities in relation to CSR and corporate accountability. The functions of the Sub-Commission for the Promotion and Protection of Human Rights include undertaking studies on issues relevant to human rights and making recommendations to the Commission on Human Rights. Having facilitated the process of designing the Norms through a working group of experts, the Sub-Commission also proposed a monitoring role through the working group, whereby it could receive and analyse information concerning the negative impact of business activities. For the Norms to acquire political weight and legitimacy, however, they must be approved by the Commission on Human Rights, which is composed of selected member states. Until the Commission undertakes formal consideration of the

Norms, the role of the OHCHR remains limited to providing administrative support to the Sub-Commission, mediating debates and disseminating information.³ This role is particularly important in relation to bridging the knowledge gap and communication divide between governments, business and civil society—and can serve to “highlight the legitimacy of the concerns of different communities while at the same time dispelling some myths”. Currently, implementation of the Norms depends crucially on the roles of both NGOs and business: NGOs, for example, can use them to hold business accountable, as Amnesty International has done. They can also work with business to pilot the Norms, and companies can adopt them as the basis for a code of conduct.

The potential and limits of the UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights were discussed by several participants. Richter and Bendell considered it essential to build up a political momentum to get the Norms approved and effectively implemented. Others were more cautious. Justice noted that while the drafting process had managed to improve their content, problems remain, particularly regarding the fairly weak implementation clauses and the reporting guidelines that do not specify what type of reporting.

The politics of CSR

The conference discussions revealed that CSR is very much an arena of political contestation, both in the “macro” sense of defining relations between the market and the state, and between different actors and social groups, and in relation to participation in decision making.

Who participates and who decides?

A crucial challenge for the future is how to democratize CSR decision making. A major concern regarding CSR centres on its top-down, Northern- and “expert”-driven character. Various speakers pointed out that the key issue is not simply what is on the agenda, and whether policy statements become operational, but

how the agenda is negotiated and who participates in its design and implementation.

At the company level, Standing stressed, the CSR agenda needs to be based on bargaining and negotiation involving management, workers and civil society groups. In relation to international MSIs, Ward noted that CSR tools, such as codes of conduct, labelling and certification, are being developed fairly rapidly, but less attention is given to developing effective governance mechanisms. “They are largely driven by consumers based in the North. ... [Participatory] governance structures...are largely unevolved.”

Several participants noted some important differences between the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, and other international instruments, such as the OECD Guidelines for Multinational Enterprises and the UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights. Justice emphasized the importance of drawing up international standards on the basis of negotiations involving representative stakeholders. Diller observed that the “built-in premise [of the ILO Declaration is] that MNEs cannot act responsibly in isolation”. Regarding the process of developing new international agreements, she noted, “there need to be safeguards to ensure transparency and representative processes”.

The challenge is not only to create forums and institutions where various interests and stakeholders are represented, but also to ensure that representation is genuine and, once at the negotiating table, that the stakeholders involved have real bargaining power.

Alva Pino pointed out that in some developing countries spaces for multistakeholder dialogue and consultation have opened up, but the negotiating and bargaining power of various stakeholders is very weak. “This situation raises some fundamental questions regarding ‘stakeholder theory’.” Furthermore, the stakeholder model is undermined by the fact that it is often the companies themselves that select the stakeholders involved.

Richter observed that the mainstream CSR agenda and corporate public relations serve a political function, which involves attempting to set the agenda and engineer a shift from stronger regulatory approaches to

³ Subsequent to the UNRISD conference, the Commission on Human Rights met in April 2004. It affirmed that the Sub-Commission should not perform any monitoring function. It also requested the OHCHR to compile a report setting out the scope and legal status of existing initiatives and standards relating to the responsibilities of TNCs and related enterprises with regard to human rights.

ward self-regulation and voluntary initiatives. Activist strategies must not only shift the balance of social forces, but also expose the financial and political links that enable corporations to influence public decision making. A common thread running through several presentations and commentaries concerned the need to counteract corporate power by strengthening alternative centres of power.

Strengthening public governance

A recurring theme throughout the conference centred on the relationship between corporate behaviour and the roles of the state and civil society. The important question is how these two sets of actors and institutions combine to promote effective public governance.

Referring to South Africa, Fig pointed out that

any 'new agenda' requires structural changes, in which partnerships only become meaningful when co-ordinated and led by a transformative state as part of a wider developmental plan. Under current conditions, this requires an exceptionally active and vigilant civil society, able to demand accountability from corporations and the state. As in the case of AIDS and antiretroviral treatment, we are only beginning to see what is required....

Several speakers reminded conference participants of the serious constraints that affect the capacity of NGOs and consumers to exert social and market pressure. Reflecting on the campaigning experience of Friends of the Earth in relation to corporate malpractice, Bennett highlighted the frustrations that arise given the scale of the problems, the limited response of TNCs and the relatively weak capacities of NGOs. "For groups like us...the moment you feel that you have given [the corporations] a good going over, you have to start again." He also noted that concerned consumers are faced with an impossible situation of having to acquire information about which of the thousands of product lines in supermarkets have been produced in an environmentally and socially sound way, and which brands and labels can be trusted. For these reasons, voluntary approaches confront major limits and suggest the need for regulatory approaches.

In its regulatory armoury the WHO has a range of instruments including treaties, conventions, resolutions and codes. According to Yach, politics partly explains the limited adoption of such instruments—and the types of instruments actually adopted.

Box 6

BROAD-BASED COALITIONS

The challenges facing the corporate accountability movement are considerable, not least because resistance to international regulation is likely to be even stronger today than in the past, given the consolidation of neoliberalism and corporate property rights in recent decades through, for example, the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), the General Agreement on Trade in Services (GATS) and the North American Free Trade Agreement (NAFTA). It is necessary, therefore, to build or strengthen coalitions that embrace:

- managers and companies interested in "shifting CSR out of its current Pharisaic mentality, where companies try to show how good they are" to more meaningful efforts to tackle the problems of the world; and
- groups and interests in developing countries, in order to overcome the present situation where such actors are often poorly represented in corporate accountability initiatives.

The academic community should engage with efforts to "shape decisions that shape people's lives" rather than limiting its action to the generation of knowledge. "I'm beginning to think that we don't lack the knowledge—we lack the courage."

Source: Bendell

The International Code of Marketing of Breast-Milk Substitutes...was actually intended to be a treaty, but due to extreme lobbying by certain multinationals and countries [in] the late 1970s and early 1980s, it came out to be what is the weakest form of international agreement—a resolution.

Furthermore, diverse constituencies resist regulation.

The public health community distrusts lawyers; the corporate world doesn't want regulation; and many officials who are within the WHO system see this as being unnecessarily messy and complex....

Moreover, corporate sectors that face regulatory threats adopt a range of tactics to thwart the policy process, such as disseminating “deceptive science” and infiltrating public policy institutions. He emphasized that the adoption of international regulatory instruments related to health depends crucially not only on government support, but also on civil society mobilization.

Another feature of public governance involves “policy autonomy”. Referring to public-private partnerships in developing countries, Zammit emphasized the need to reassert national ownership of development strategies and to create mechanisms to ensure that CSR and partnership initiatives are compatible with the policy frameworks, and development and investment priorities, established by the country concerned.

To deal with the problems of paternalism, window dressing and coercion that often characterize CSR initiatives, Standing stressed the importance of a model, currently being applied by the ILO, based on several principles and processes. These include bargaining and stakeholder pressure; efforts to improve the position of the worst-off and reduce gross inequalities in income differentials; and strengthening the regulatory environment.

Ward summed up the importance of public governance.

It is increasingly recognized, and it has certainly come across rather clearly in this conference, that voluntary corporate social responsibility works best where government and the public sector is effective, predictable and clear; ... where citizens and workers are empowered and human rights are respected; and where principles and institutions of justice..., public participation and access to information are all recognized.

In closing the conference, Utting stated that the rich discussions on what works and what does not, and on alternative approaches, indicate that much unfinished business lies ahead. It is also clear, he said, that there are multiple roles that the UN can or should be playing to promote corporate accountability. They include norm setting and international regulation, inter-agency co-ordination; best-practice learning; engaging different stakeholders in dialogue and concrete initiatives; and critical research, monitoring and oversight. Although the UN is active on several fronts, some significant imbalances in the relative importance assigned to these different roles need to be corrected. The ideas and concerns that surfaced at the conference—on ways of articulating voluntary and legalistic approaches, a new regulatory infrastructure, greater sensitivity to developmental issues, the role of civil society mobilization, and the politics of CSR—suggest some of the crucial avenues along which UN thinking, policy and practice should proceed.

Agenda

Monday, 17 November 2003

OPENING

0945 – 1015 *Thandika Mkandawire* — United Nations Research Institute for Social Development
Peter Utting — United Nations Research Institute for Social Development

SESSION 1 CSR AND DEVELOPMENT: RESEARCH PERSPECTIVES

PANEL 1 WHAT DIFFERENCE DOES CSR MAKE TO DEVELOPMENT?

1015 – 1145

- How significant are CSR initiatives in terms of their contribution to social and sustainable development?
- What are the tensions and contradictions between CSR and development?
- What developmental issues are being ignored in the current CSR agenda?

CHAIR *Asif Hasnain* — Private Sector Development Branch, United Nations Industrial Development Organization, Austria

SPEAKERS *David Fig* — University of the Witwatersrand, South Africa
David Barkin — Universidad Autónoma Metropolitana-Xochimilco, Mexico
Monina Wong — Hong Kong Christian Industrial Committee, Hong Kong
David Murphy — New Academy of Business, United Kingdom

DISCUSSION 1 What difference does CSR make to development?
1145 – 1230

SESSION 2 NEW RELATIONS WITH TNCs

PANEL 2 MSIs

1400 – 1500

- Are multistakeholder initiatives an effective means of deepening and scaling up CSR?
- Are they overcoming the problems and limitations that characterize corporate self-regulation?
- Can they move from the current phase of pilot testing and experimentation to become a new system of regulation for corporate activity?

CHAIR *Lorraine Ruffing* — Enterprise Development Branch, United Nations Conference on Trade and Development, Switzerland

SPEAKERS *Deborah Doane* — New Economics Foundation, United Kingdom
Dara O'Rourke — University of California-Berkeley, United States
Ineke Zeldenrust — Clean Clothes Campaign International Secretariat, Netherlands

DISCUSSION 2 MSIs
1500 – 1530

PANEL 3 UN-BUSINESS PARTNERSHIPS

1600 – 1700

- In terms of social and sustainable development, what has been the added value of UN-business partnerships?
- What are the tensions and contradictions associated with UN-business partnerships?
- How have current partnership arrangements responded to criticisms and concerns about their developmental and governance implications?

CHAIR *Cornelis van der Lugt* — Division of Technology, Industry and Economics, United Nations Environment Programme, France

SPEAKERS *Ann Zammit* — Independent Consultant
John Dunning — University of Reading, United Kingdom
Amalia Waxman — World Health Organization, Switzerland

DISCUSSION 3 UN-business partnerships
1700 – 1800

Tuesday, 18 November 2003

SESSION 3 BEYOND CSR?

PANEL 4 CSR FROM A DEVELOPMENTAL PERSPECTIVE

- 0900 – 1000
- How might the contradictions between TNC and developing country interests be managed?
 - Is a new CSR agenda necessary? If so, what would a CSR agenda look like from a developmental perspective?

CHAIR *Francisco Magno* — La Salle Institute of Governance, Philippines

SPEAKERS *Ajit Singh* — University of Cambridge, United Kingdom
Guy Standing — International Labour Organization, Switzerland

DISCUSSION 4 CSR from a developmental perspective
1000 – 1030

PANEL 5 CORPORATE ACCOUNTABILITY AND INTERNATIONAL REGULATION OF TNCs

- 1100 – 1200
- From a political and developmental perspective, how significant are the recent proposals and reforms associated with corporate accountability and international regulation of TNCs?
 - Are new laws and institutions needed or are existing frameworks and instruments sufficient to curb corporate power and malpractice, and improve the developmental impacts of TNCs?

CHAIR *Ambassador Mia Horn af Rantzien* — Ministry for Foreign Affairs, Sweden

SPEAKERS *Jem Bendell* — Independent Consultant
Janelle Diller — International Labour Organization, Switzerland
Dwight Justice — International Confederation of Free Trade Unions, Belgium
Halina Ward — International Institute for Environment and Development, United Kingdom

DISCUSSION 5 Corporate accountability and international regulation of TNCs
1200 – 1300

PANEL 6 THE ROLE OF THE UNITED NATIONS IN CORPORATE ACCOUNTABILITY AND INTERNATIONAL REGULATION

- 1415 – 1530
- What role should UN institutions, old and new, play in the international regulation of TNCs and corporate accountability?

CHAIR *Peter Utting* — United Nations Research Institute for Social Development, Switzerland

SPEAKERS *Jan Aart Scholte* — University of Warwick, United Kingdom
Judith Richter — Independent Researcher
Simon Walker — Office of the United Nations High Commissioner for Human Rights, Switzerland
Derek Yach — World Health Organization, Switzerland
Ludger Odenthal — United Nations Conference on Trade and Development, Switzerland

DISCUSSION 6 The role of the United Nations in corporate accountability and international regulation
1530 – 1630

Speakers and Chairpersons

David **BARKIN** — Universidad Autónoma Metropolitana-Xochimilco, Mexico

Jem **BENDELL** — Independent Consultant

Janelle **DILLER** — International Labour Organization, Switzerland

Deborah **DOANE** — New Economics Foundation, United Kingdom

John **DUNNING** — University of Reading, United Kingdom

David **FIG** — Sociology of Work Unit, University of the Witwatersrand, South Africa

Asif **HASNAIN** — Private Sector Development Branch, United Nations Industrial Development Organization, Austria

Mia **HORN AF RANTZIEN** — Ambassador, Ministry for Foreign Affairs, Sweden

Dwight **JUSTICE** — International Confederation of Free Trade Unions, Belgium

Francisco **MAGNO** — La Salle Institute of Governance, Philippines

Thandika **MKANDAWIRE** — United Nations Research Institute for Social Development, Switzerland

David **MURPHY** — New Academy of Business, United Kingdom

Ludger **ODENTHAL** — United Nations Conference on Trade and Development, Switzerland

Dara **O'ROURKE** — University of California-Berkeley, United States

Judith **RICHTER** — Independent Researcher

Lorraine **RUFFING** — Enterprise Development Branch, United Nations Conference on Trade and Development, Switzerland

Jan Aart **SCHOLTE** — University of Warwick, United Kingdom

Ajit **SINGH** — University of Cambridge, United Kingdom

Guy **STANDING** — International Labour Organization, Switzerland

Peter **UTTING** — United Nations Research Institute for Social Development, Switzerland

Cornelis **VAN DER LUGT** — Division of Technology, Industry and Economics, United Nations Environment Programme, France

Simon **WALKER** — Office of the High Commissioner for Human Rights, Switzerland

Halina **WARD** — International Institute for Environment and Development, United Kingdom

Amalia **WAXMAN** — World Health Organization, Switzerland

Monina **WONG** — Hong Kong Christian Industrial Committee, Hong Kong

Derek **YACH** — World Health Organization, Switzerland

Ann **ZAMMIT** — Independent Consultant

Ineke **ZELDENRUST** — Clean Clothes Campaign, International Secretariat, Netherlands

AIDS	Acquired Immunodeficiency Syndrome	OHCHR	Office of the United Nations High Commissioner for Human Rights
CCC	Clean Clothes Campaign	SAI	Social Accountability International
CER	corporate environmental responsibility	SMEs	small and medium-size enterprises
CETIM	Centre Europe–Tiers Monde	TNC	transnational corporation
CSO	civil society organization	TRIPS	Trade-Related Aspects of Intellectual Property Rights
CSR	corporate social responsibility	UK	United Kingdom
DFID	Department for International Development (United Kingdom)	UN	United Nations
ETI	Ethical Trading Initiative	UNCTAD	United Nations Conference on Trade and Development
FDI	foreign direct investment	UNDP	United Nations Development Programme
FLA	Fair Labor Association	UNEP	United Nations Environment Programme
FSC	Forest Stewardship Council	UNECE	United Nations Economic Commission for Europe
FWF	Fair Wear Foundation	UNICEF	United Nations Children's Fund
GATS	General Agreement on Trade in Services	UNIDO	United Nations Industrial Development Organization
GIFA	Geneva Infant Feeding Association	UNRISD	United Nations Research Institute for Social Development
GM	genetic modification	US	United States
HKCIC	Hong Kong Christian Industrial Committee	WEED	World Economy, Ecology and Development
IBFAN	International Baby Food Action Network	WHO	World Health Organization
ICFTU	International Confederation of Free Trade Unions	WRAP	Worldwide Responsible Apparel Production
IDS	Institute of Development Studies	WRC	Worker Rights Consortium
IIA	international investment agreement	WTO	World Trade Organization
IIED	International Institute for Environment and Development		
ILO	International Labour Organization		
ISO	International Organization for Standardization		
MNE	multinational enterprise		
MSC	Marine Stewardship Council		
MSI	multistakeholder initiative		
MSN	Maquila Solidarity Network		
NAFTA	North American Free Trade Agreement		
NEF	New Economics Foundation		
NGO	non-governmental organization		
OECD	Organisation for Economic Co-operation and Development		

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