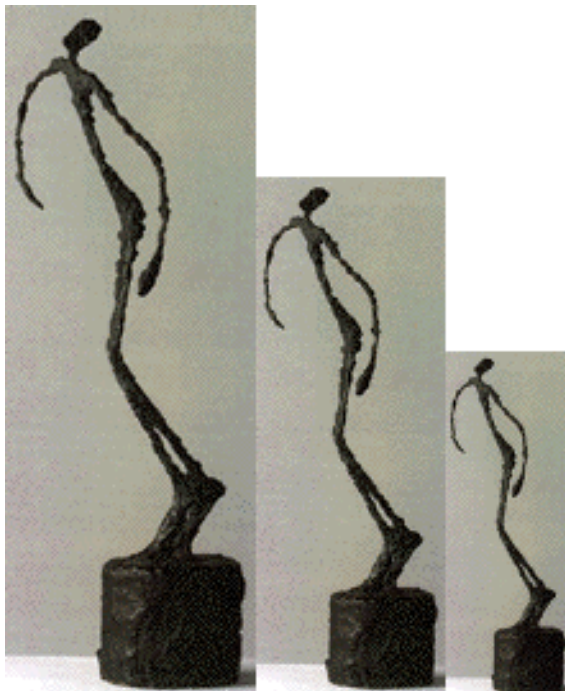


*Documents de travail  
de l'IIEDH No 2*

# *Swiss business and human rights*

Confrontations and  
partnerships with NGOs



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**Septembre 2001**

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This study was commissioned by Antenna Internationale (AI), a Swiss human rights foundation in Geneva. AI is active in legal assistance, the fight against torture and in the international fight against corruption.

English translation by Richard A. Dunkley.

L'original en français est publié aux Editions universitaires, collection interdisciplinaire, Fribourg, 2001, sous le titre: *Entreprises suisses et droits de l'homme*.

Our deepest gratitude goes to the following institutions, which made this study possible:

- the Political Department, Human Rights Division, Federal Department of Foreign Affairs;
- the Department of Social Action and Health of the Government of Geneva
- the Department of Social Affairs of the City of Geneva.

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## Preface

As enterprises become aware that Non-Governmental Organisations (NGOs) are partners, somewhat disorganised, it is true, but a force to be reckoned with, Antoine Mach's study is well timed to offer an intermediate assessment of the spirit of the discussions, confrontations and of some experiences of partnership. The survey covers a sample of 10 Swiss companies and 15 NGOs working in Switzerland and its scope is confined to the problem of the responsibility of these economic players as pertains to human rights in developing countries. The merit of this study is that it shows dialogue and partnerships to be developing: enterprises, like NGOs, are accountable for their actions before the same public, which is less and less able to understand the lack of agreement. Enterprises can no longer overlook either the impact of NGOs on their image or the expertise of many of them. Conversely, the steadily expanding NGO membership is less and less prepared to accept that its associations should remain marginal and alternative; on the contrary, its intention is for them to participate fully in a development that will only be sustainable if, together with economic rationales, it respects all human rights. In this context, there is no longer a dominating law. The various partners of enterprises (clients, shareholders, staff), like the associations, no longer accept the invocation of "market forces" as if they were intangible. Markets are not merely spaces for negotiation; they are themselves subjects of negotiation. An ongoing public debate should serve to determine what is marketable and what is not, and hence the limits of markets in the environmental, cultural and social spheres.

The climate is still very often one of mutual distrust, of frontal opposition between a realistic profit rationale and a viewpoint as generous as it is idealistic. This confrontation hardly makes sense in a democratic setting. The experiences compiled in this study show that the time has now come to seize the prospect, not of idyllic partnership but of real debate involving not only enterprises and NGOs in the framework guaranteed by the State, but three types of economic players, each with its own priority objectives: private players (enterprises) whose goal is not financial gain first and foremost, but the creation of wealth (including human wealth), public players (the State and its institutions) at all levels of governance, whose purpose is to guarantee rules of play that serve the public interest, and civil players (third sector: NGOs and all non-profit organisations), whose goal is for all to contribute to the general good. This is why we are publishing this study in line with the *Charter of Shared Responsibilities in Economic Activity* offered in this collection by our Institute, and with its research programme. It is our wish that the prospects of necessary and rational cooperation will lead the three types of economic players increasingly to develop or create places of observation, discussion, agreement and decision, so that we may live up to our shared human rights responsibilities.

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# 1. Introduction

## 1.1 Presentation

This study deals with the role of Swiss enterprises in integrating human rights into the global economy. In essence, it compares two conceptions of the social responsibility of enterprises at the international level: that of Non-Governmental Organisations (NGOs) and that of the enterprises themselves.

At first glance, enterprises and human rights would seem to be worlds apart. Enterprises are players in the private economy pursuing their own interests, while human rights are a political concern and a legal instrument, an expression of the general interest, and the responsibility of governments and the United Nations. Linking these two terms would seem incongruous, either the product of an angelic imagination, or a dubious publicity stunt. Yet several forces are militating for them to be more closely associated, and "Business and Human Rights" (*Entreprises et droits de l'homme*) is becoming an important topic in discussions and action plans concerned with regulating the global society and with the social responsibility of enterprises.

This topic is most often approached in general terms: Declarations by international organisations, a call by the Secretary-General of the United Nations, Charters of professional bodies, Business Principles adopted by transnational corporations. This study looks at a series of cases bound up with the problems of "Business and Human Rights", from the Swiss standpoint. It consists of a comparative analysis of the stances of NGOs and enterprises on about a dozen social and economic issues of global reach.

## 1.2 Context and origin

This initiative arose in the context of discussions and studies conducted within *Antenna Internationale*, a Geneva-based organisation for the defence of human rights, headed by Denis von der Weid. Since 1983, this organisation has been exploring the possibility of anchoring human rights in economic mechanisms. That exercise is based on the idea that the satisfaction of basic rights and needs such as freedom, food, health, education and work depends in large measure on the prevailing economic conditions. These conditions are determined by government policies, but also, as the economy becomes liberalised and globalised, increasingly by the behaviour of the economic players themselves: enterprises, consumers and shareholders. The fact is that the activities of both transnational corporations and domestic companies working with developing countries can significantly affect - positively or negatively - the overall situation of human rights and North-South relations. This raises several questions: what should be done so that enterprises will assume greater responsibility in the sphere of human rights? Should a coercive approach be favoured, in the form of pressure within international institutions for the adoption and application of laws? Or should an incentive-based approach be preferred, using market mechanisms to spur enterprises into voluntary initiatives? How much hope may we place in dialogue and cooperation between business and NGOs, and between business and United Nations agencies?

This study translates the intention to look in depth at the real and potential linkages between human rights and the economy and to gather information on how the social record of various Swiss enterprises has been perceived in recent times. It had its genesis in the analysis of documents from sources such as international organisations, professional bodies, NGOs and NGO networks, annual reports and Internet sites of companies and from the general and the economic press. That preliminary research yielded two findings and an overall impression that were to inspire the conduct of the study itself:

- a) NGOs are now the subject of much discussion owing to their statements generally critical of the globalised economy; in parallel, they are challenging certain companies about specific

aspects of their activities and addressing precise demands to them, most often by means of campaigns to raise public awareness, but also through direct dialogue; partnerships are being forged between NGOs and business.

- b) A growing number of enterprises are generally accepting the principles of social responsibility, assuming a civic role, though there is scant information as to the practical realisation of these principles by the enterprises.
- c) NGOs and enterprises maintain more intense, complex and fruitful relations than appearances would suggest.

### **1.3 Scope and objective**

NGOs are challenging the business community and presenting them with demands on precise issues. These issues may relate to working conditions in the enterprise or those of its partners in developing countries, the marketing conditions of a product, the social consequences of producing certain goods and services, the social utility of a product, or even the relations between the enterprise and some governments. This study attempts to compare the positions of NGOs and those of enterprises on the issues in question and, beyond that, to outline the viewpoint of the enterprises concerned on the general topic of human rights, as well as the initiatives taken by enterprises in that regard.

The purpose of this study is to assemble the makings of an answer to the following question: what can enterprises do to promote human rights? Or: to what extent can enterprises help to further the task of achieving international observance and implementation of human rights such as civil and political rights protecting individuals from the arbitrary behaviour of States, economic, social and cultural rights corresponding to poverty reduction and the development of countries, or fundamental rights of workers preventing exploitation? Stated in yet another way, the aim is to bring out the divergences and any areas of common interest between the advocates of human rights and economic players.

The human rights deficit is greater in the South than in the North. This study focuses on the human rights situation in the South, in developing countries, and on the role of Swiss companies in that connection; it does not address the social role of companies in Switzerland or their role with respect to the environment.

The question of binding measures with respect to the part played by enterprises in human rights, now being discussed amongst international law specialists and within forums such as the United Nations Sub-Commission on Human Rights, is not tackled in this study. It concentrates on direct relations between civil society and the private sector and on voluntary initiatives by companies in the field of human rights. It concludes by examining the role of the State from the perspective of incentives.

### **1.4 Method**

The cases were chosen for the sake of representativeness rather than exhaustiveness.<sup>1</sup> A series of human rights-related demands made by NGOs to Swiss companies over the past 20 years was selected. It turned out that some enterprises were concerned by several of these demands.

In a second phase, some 15 NGOs and about a dozen enterprises were selected, as leading players in the cases chosen. Those NGOs and enterprises were contacted to arrange for a discussion intended to yield a better knowledge of their positions. The request was accompanied by a

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<sup>1</sup> The role of Swiss companies in the arms trade is not dealt with, even though it has prompted NGOs to wage many critical campaigns, especially in the 1980s.



questionnaire based on the initial elements gathered. The NGOs and enterprises were co-operative. The interviews lasted one to two hours and took place at the premises of the NGO/enterprise. Depending on the case, the persons representing the enterprises were members of the management, public relations officers or staff responsible for ethical and environmental matters. The NGO representatives were permanent staff and/or members of governing bodies. Some interviews were subsequently completed by telephone and by written correspondence.

The discussions covered the demands put forward by NGOs and responses by enterprises, as well as the more general issues concerned with the international social responsibility of the enterprise, and NGO-business relations. The campaigns and their specific issues thus served as the starting point for a broader discussion.

### **1.5 General outline**

Chapters 2 to 8 follow a similar structure. They begin by introducing the context and theme of the campaign, then present the views of the NGOs followed by those of the enterprises, and conclude with a comparative assessment and an interpretation of NGO-business relations.

Chapter 9 addresses a range of topics common to several cases and of general relevance to the problems of business and human rights. Chapter 10 summarises the study's findings. To conclude, Chapter 11 discusses future issues such as the development of social accountability, incentives to private social initiatives and the Swiss political project.

The bulk of the material in this study comes from the interviews conducted with NGO and business representatives during the year 2000; they have had the opportunity to examine the passages that concern them and to make further additions or clarifications before publication of the study. That information is supplemented with material drawn from documents made public by the players concerned (annual reports, Internet sites), as well as from sources such as international and economic organisations.

The information is presented in narrative fashion. The intention is to recount the history of relations between NGOs and enterprises from various sectors in the sphere of human rights and to furnish documents on instances of confrontation, dialogue and partnership in order to offer an overview of the problems of "Business and Human Rights" from the Swiss perspective.

My thanks go to Matthias Brunner, Elena de la Rosa, Maja Jegen, Véronique Merckx, Patrice Meyer-Bisch, William Ossipow, Christoph Pappa, Laura Pult and Denis von der Weid.

## 2. Distributors of food and textile products

Labour-intensive production is often deployed to developing countries, where working conditions generally do not match the standards prevailing in the rich countries. This fact is spurring NGOs to demand that enterprises guarantee decent working conditions for their own employees and those of their partners. To that end, they refer to the labour rights laid down by the International Labour Organisation.<sup>1</sup> NGO initiatives simultaneously target the brand names that control production and the enterprises that distribute those brand name products. The cases that follow pertain to the production of fruits, coffee, rugs and garments.

### 2.1. The Migros – Del Monte social clause

#### 2.1.1 Hunger and working conditions

In 1981, the Swiss development organisation Bern Declaration (BD) launched a campaign concerned both with hunger and working conditions in Third World countries. It denounced the working conditions prevailing on pineapple plantations controlled by western transnationals in the Philippines. Under this campaign, the Bern Declaration called on major Swiss distributors to cease drawing pineapple supplies from the transnationals concerned. The fruits were threatened with boycott.

#### 2.1.2 The social responsibility of the enterprise according to the NGOs

The management of Migros, a leading Swiss distributor, initially reacted strongly by challenging the justification of this campaign, defending its partner Del Monte and accusing the Bern Declaration of distorting the facts.<sup>2</sup> Confrontation then gave way to dialogue. In 1982, the development organisations Bread for All (PPP) and Protestant Aid, supported by the Bern Declaration, Helvetas (HEL), Swissaid (SWI) and Catholic Lenten Fund (AdC), started negotiations with Migros around the idea of a social clause<sup>3</sup> governing pineapple production in the Philippines. The objectives stated in the draft of that agreement were to improve working conditions, salaries, and the possibilities for trade union representation on the plantations and in the Del Monte canning factory in the Philippines, as well as improved conditions for the leasing of land to peasant farmers.<sup>4</sup>

#### 2.1.3 The social responsibility of the enterprise according to Migros

The discussions with the NGOs led Migros to embrace the idea of the social clause and to propose it to its partner, Del Monte. In June 1993, the US firm sent a letter to Migros pledging to guarantee production conditions better than the local average in developing countries. From the standpoint of the NGOs, there was still some vagueness in the formulation and in the details of the commitments, but the principle had been established. The NGOs welcomed this "pioneering act which is now part of the Migros social tradition."<sup>5</sup>

In 1987, representatives of Migros and Swiss NGOs carried out an evaluation mission to the Philippines. The mission observed that the Migros-Del Monte social clause was on the whole being observed and that improvements were needed in certain aspects, such as the level of wages and freedom of association. The next step was a proposal by the Swiss and Philippine NGOs for the creation of an independent monitoring body so that the evaluation of implementation of the

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<sup>1</sup> <http://www.ilo.org>.

<sup>2</sup> *Vers un développement solidaire* (Towards Development in Solidarity), periodical of the Bern Declaration, No 54, May 1981, p.14.

<sup>3</sup> This is a private social clause arising from a voluntary initiative and as such, differs from the legally binding social clause that some would like to incorporate into the rules of international trade; the Migros-Del Monte social clause is akin to a code of conduct.

<sup>4</sup> Christoph Stückelberger and Michel Egger, *A social clause with a TNC: The Migros-Del Monte Case*, Swiss Coalition News, periodical of the Swiss Coalition of Development Organisations, No 7, March 1996, p. 6.

<sup>5</sup> *Vers un développement solidaire* (Towards Development in Solidarity), No. 127, February 1995, p. 11.

social clause could continue on a regular basis and be done by local players. In 1994, at the prompting of Swiss and Philippine NGOs, Migros and Del Monte agreed to the formation of such a body. It was composed of Filipinos from churches and universities who were specialised in the areas of labour law, environment, agriculture and management. A report was published early in 1996, stating that the social clause was generally being complied with and underlining the areas that needed improvement. In that report, Migros committed itself to continuing to import pineapples produced by Del Monte in the Philippines, despite a cost higher than that of its competitors, "owing to social commitments."<sup>6</sup> The Migros-Del Monte Social Clause is mentioned in the Migros 1999 Environmental Activity Report.

#### 2.1.4 Assessment

The Migros - Del Monte Social Clause is one of the first experiments in independent monitoring of the application of a private social standard in international trade. After the phases of confrontation and negotiation, the NGOs and Migros entered into a partnership that would give rise to others, as underlined by a Migros representative: "For the enterprise, the Migros - Del Monte Social Clause marks the start of a tradition of dialogue and collaboration with the NGOs."<sup>7</sup>

## 2.2 Max Havelaar

### 2.2.1 Fair trade

Since the 1970s, associations such as *Les Magasins du Monde* or Caritas have been selling products derived from fair trade. These associations sell sugar, orange juice, coffee produced by cooperatives of farmers in developing countries, who earn above average income and have long-term contracts and possibilities for harvest pre-financing. The origins of fair trade were characterised by militancy both on the part of the associations distributing the products and amongst consumers.

In the mid-1970s in Frauenfeld, a group of women organised awareness-building activities with respect to the working conditions prevailing in the major banana plantations controlled by the transnationals. The women bought bananas at the Migros and resold them at 20 cents more on the sidewalk in front of the store. Their aim was to demonstrate that at a slightly higher price, consumers could purchase fruit produced under better human and social conditions. By this largely symbolic gesture, the *Bananenfrauen*<sup>8</sup> helped to spread the idea of fair trade.<sup>9</sup>

### 2.2.2 The social responsibility of the enterprise according to the NGOs

In 1992, six Swiss development organisations - Swissaid, Catholic Lenten Fund, Bread for All, Helvetas, Caritas and Protestant Aid, created the Max Havelaar Foundation,<sup>10</sup> an initiative originating in the Netherlands and replicated in many countries. The Confederation gave financial support to this initiative (Federal Office for External Economic Affairs). The purpose of the Foundation and the Max Havelaar label is to make it possible to introduce fair trade products into the major distribution networks within the market economy, thereby reaching a mass market.<sup>11</sup>

Extensive discussions within and amongst the NGOs preceded the launch of that initiative: some members were reluctant and wondered whether it would be fair to help the major distributors to profit from a new market (the additional cost stemming from improved conditions of production is

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<sup>6</sup> Christoph Stüchelberger and Michel Egger, op. cit. p. 7.

<sup>7</sup> Interview with Fausta Borsani, Ethics/Environment Officer of the Federation of Migros Co-operatives, Zurich, 19 May 2000.

<sup>8</sup> Title of a book written by Ursula Brunner, Huber publishing house, Frauenfeld/Stuttgart/Vienna 1999.

<sup>9</sup> Interview with Tobias Meier, Sales Manager, Helvetas, Zurich, 21 February 2000.

<sup>10</sup> Max Havelaar is the title of an autobiographical novel written in the mid-nineteenth century by the Dutch civil servant Eduard Douwes Dekker. The novel denounced the exploitation of indigenous labour in the European colonies in the Indies.

<sup>11</sup> Max Havelaar Foundation, Swiss Coalition news 5, September 1995.

borne by the consumer and not by the distributor, which would receive the same margin as for "traditional" products<sup>12</sup>). Another fear stemmed from the financial aspect and the prospect of having to support the Foundation over the long term, in the event of unsatisfactory results.<sup>13</sup>

### 2.2.3 The social responsibility of the enterprise according to Migros and Coop

Finally, the NGOs simultaneously approached the two leading Swiss distributors, Migros and Coop and proposed the Max Havelaar concept to them. To convince these two enterprises, the NGOs played on competition.<sup>14</sup> Migros and Coop immediately took an interest, as did other distributors and retailers. Once they had obtained guaranties of reliable supplies, Migros and Coop incorporated into their product range Max Havelaar coffee (1992), honey (1993), chocolate and sugar (1994), and tea (1995).

Since then, sales of Max Havelaar products have been increasing steadily, reflecting the growing consumer interest in products with a social component. New products were added to the Max Havelaar range: bananas (1997) and orange juice (1999). The introduction of rice is under study. The most successful products have been coffee (3-5 per cent of the Swiss market) and bananas (15 per cent).

### 2.2.4 Assessment

In 1999, Max Havelaar products and others with a social or environmental component played a significant role in the growth of Coop and Migros, as borne out by the results disclosed in the annual reports of these enterprises. Fair trade products represent a fast-growing market, similar to the markets for functional foods, organic foods and convenience products. In the light of this success, Migros and Coop are actively urging the Max Havelaar Foundation to introduce new products, such as exotic fruits and cut flowers.

From the standpoint of the Foundation, the financial situation is satisfactory. Its revenue, derived from the award of licenses, is growing. The misgivings aired by some NGO staff before the creation of the Foundation have proved groundless: having received the support of the main Swiss development organisations and of the Confederation, the Max Havelaar Foundation expects to become self-financing in the course of 2000.

The introduction of tea, bananas and orange juice signified a broadening of the criteria for defining fair trade. For the Max Havelaar Foundation and the umbrella organisation for fair trade labels, the Fair Trade Labelling Organisation International (FLO), which determine and monitor the application of the standards, a product is deemed to meet the fair trade criterion not only when produced by small farmers organised as cooperatives, but also if produced by large plantations and factories where at least the legal minimum wage is assured and health and safety standards, freedom of association and the protection of children from exploitation are compliant with the standards laid down by the International Labour Organisation.<sup>15</sup> In fact *fair trade* is akin to *ethical trade*, a designation often used to describe initiatives designed to improve working conditions in the export industry, such as the Migros - Del Monte Social Clause and the numerous codes of conduct drawn up during the 1990s (see below).<sup>16</sup>

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<sup>12</sup> Carole Vann/InfoSud, Paola Ghilani, *au service des producteurs du Sud*, Le Temps, 10 August 1999.

<sup>13</sup> Interview with Tobias Meier, Sales Manager, Helvetas, Zurich, 21 February 2000.

<sup>14</sup> Interview with Tobias Meier, op. cit.

<sup>15</sup> Max Havelaar Foundation (Switzerland), public documents, 1999, 2000. <http://www.maxhavelaar.ch>

<sup>16</sup> Discussion within associations and NGOs on the definition of *fair trade* is still ongoing. Some would wish to apply this formula only to trade with small independent producers, whilst others acknowledge that it could also describe social initiatives taken in the framework of trade relations involving large companies. Where convenient, the latter use it quite willingly.

## 2.3 STEP

### 2.3.1 Child labour in carpet manufacturing

In the early 1990s, the media and NGOs published reports about the frequent use of child labour in the export industry, mainly to produce sports footwear, clothing, toys and carpets in Asia and Central America. This elicited widespread reactions across Europe and the United States. Some of those reactions, such as boycotting a country or the sudden cessation of working relations with a company deemed to be at fault, proved ultimately counterproductive in that the children were suddenly deprived of any subsistence income or found themselves in even worse situations, such as working in mines or in prostitution.

### 2.3.2 The social responsibility of the enterprise according to the NGOs and IGOT

In October 1995, the development organisations Catholic Lenten Fund, Caritas, the Bern Declaration, Bread for All and Swissaid joined ranks with a Swiss carpet distributors organisation, the *Association pour un commerce loyal du tapis d'Orient*, IGOT (Association for Fair Trade in Oriental Rugs), to create the STEP Foundation and label.<sup>17</sup> By signing the STEP code of conduct, the carpet distributors undertake to promote equitable working conditions in the producing countries (India, Nepal and Pakistan). That entails paying decent wages to adults and combating the exploitation of child labour.

In parallel to efforts made in the sphere of working conditions, enterprises using the STEP label pay regular contributions intended to fund development projects in the producing regions. These are projects run by local NGOs in co-operation with Swiss NGOs, some of which are STEP Foundation members. The projects cover accommodation for children, schooling, health counselling, training for young people, support in the creation of enterprises and the problems of bonded labour against debt, for instance.

Similar to the practice applied under the Migros-Del Monte Social Clause and for the Max Havelaar label, the commitments covered by the STEP label are subject to independent monitoring. This is possible because the Swiss enterprises signatory to the STEP code of conduct undertake to provide the Foundation with all useful information concerning their suppliers in Asia. The monitoring is done in each country by a unit run by members of trade unions or human rights organisations. The results are studied by the monitoring units in cooperation with the STEP office in Switzerland, and the conclusions are transmitted to the STEP member enterprises. If necessary, these enterprises encourage their suppliers to take the appropriate remedial measures.

According to an assessment presented in October 1999 by the Foundation, the abuse of child labour is now non-existent within the enterprises monitored in India and Nepal. The average wages paid are 20 to 30 per cent higher than the statutory minimum wage. On the other hand, shortcomings have been identified in some companies with respect to the work environment (lighting, ventilation, access to water and canteen facilities).

### 2.3.3 Assessment

In the spring of 2000, 13 Swiss carpet-trading names representing some 30 sales outlets were affiliated to STEP. The sales of these companies account for about one-quarter of the Swiss carpet market.<sup>18</sup> The Pfister Meubles Web site - this company being Switzerland's largest oriental rug merchant - contains a section devoted to its social commitment through STEP.<sup>19</sup> The STEP Foundation and the NGOs that support it are satisfied with the experiment thus far. For the future, the intention is to expand it to other countries such as Morocco and Iran and to step up independent monitoring measures.

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<sup>17</sup> <http://www.step-foundation.ch>

<sup>18</sup> STEP-info No 14, March 2000.

<sup>19</sup> <http://www.pfistermeubles.ch>

## 2.4 The Clean Clothes Campaign

### 2.4.1 Working conditions in the textile export industry

In the early 1990s, NGO reports and press articles affirmed that international brand-name garments were being manufactured under miserable conditions. These claims related to child labour, adult labour, specifically that of women: very low wages, long working hours, limited or no scope for unionisation, deplorable health and safety conditions. The term *sweatshops* came into use. It emerged that numerous abuses were taking place in the in-bond export zones, created to attract foreign economic activity.

### 2.4.2 The social responsibility of the enterprise according to the NGOs

In January 1999, the Bern Declaration, Catholic Lenten Fund and Bread for All launched the Clean Clothes Campaign - for garments produced with dignity.<sup>20</sup> Of Dutch origin and staged simultaneously in many countries, that campaign was the continuation of an earlier action aimed at sports footwear brand names and distributors (Let's go fair campaign). The Clean Clothes Campaign was intended to build consumer awareness of the working conditions prevailing in the textile export industry and to encourage the brand names and distributors to respect and enforce the basic rules of labour law. The campaign organisers drafted a reference code of conduct based on International Labour Organisation regulations.

The campaign invited consumers to send postcards to the garment brand names and distributors. The postcards asked a series of questions of the enterprise concerning their current or intended social measures: had they adopted a code of conduct in keeping with the Clean Clothes code? Did they envisage independent monitoring of the application of their code of conduct? What were their views on freedom of association? There was appreciable consumer participation in the Clean Clothes campaign. Up to 30 April 2000, 52,000 cards had been sent to the garment brand names and distributors in Switzerland. To the Bern Declaration: "This is a new form of militant and rapid action. People appreciate the fact that the claims are formulated as questions rather than attacks. They do not feel dragged into an overly political campaign."<sup>21</sup> The campaign elicited extensive media coverage.

### 2.4.3 The social responsibility of the enterprise according to Coop, Migros, Switcher and Veillon

Most of the enterprises replied to consumers with a two- or three-page letter explaining their position on the campaign's demands. They also provided information on the social and environmental initiatives already taken by the enterprise, particularly in developing countries. The gist of the replies from four enterprises is given hereunder.<sup>22</sup> The replies are dated February or March 1999.

**Coop.** Coop Natura Line accounts for 20 per cent of Coop's range of cotton articles;<sup>23</sup> this line of goods has been produced based on social and environmental criteria largely in accordance with the demands of the Clean Clothes Campaign; Coop and the producers of the Coop Natura Line contribute to a fund for development projects in the producing regions: in the long run, Coop wishes to bring its full range of cotton products into conformity with the standards of the Coop Natura Line; Coop intends to step up its social commitment in the spirit of the Clean Clothes code of conduct; Coop is receptive to the idea of independent monitoring.

**Migros.** The eco-label covers one-third of the garments sold by Migros.<sup>24</sup> The label reflects conformity with environmental principles, and also takes social aspects into consideration; Migros

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<sup>20</sup> <http://www.cleanclothes.ch>

<sup>21</sup> Interview with Lara Cataldi, Bern Declaration, Lausanne, 22 February 2000.

<sup>22</sup> As this study is limited to Swiss companies, the behaviour of the leading international brand names is not dealt with.

<sup>23</sup> <http://naturaplan.coop.ch/f/natur/natline.htm>

<sup>24</sup> <http://www.miosphere.ch/f/produkte/labels.php3#Anchor-eco-Label-47857>

is funding school education and vocational training projects for children and young people in India; Migros is now drawing up a code of conduct largely in line with the demands of the Clean Clothes Campaign; Migros is receptive to the idea of independent monitoring; Migros is anxious to intensify its relations with the campaign organisers.

**Switcher.** Switcher<sup>25</sup> is now preparing a comprehensive code of conduct; Switcher's suppliers have already received specifications containing certain social demands. Many journalists have visited Switcher's production facilities in India; Switcher and its principal Indian supplier envisage certification of the latter under the SA 8000 standard;<sup>26</sup> a video cassette sent along with the reply depicts the social actions carried out by Switcher thus far, especially the building of a number of schools in India.

**Veillon.** With respect to social conditions in developing countries, the main thrust of Veillon's endeavours since 1994 has been to combat forced child labour.<sup>27</sup> With the support of an International Labour Office expert and former delegate of the International Committee of the Red Cross (ICRC), the company has taken up direct contact with its suppliers and eliminated the intermediaries, and its purchasers conduct systematic monitoring of suppliers so as to avoid the risk of the resort to child labour. In 1997, the humanitarian NGO Association François-Xavier Bagnoud was commissioned by Veillon to make an independent check of its suppliers and their subcontractors, using an adapted method based on the principles of visits to political detainees used by the ICRC. The finding: the risk of the use of child labour in the manufacturing of Veillon products is virtually nil;<sup>28</sup> a document attached to Veillon's reply shows that the company's efforts to combat forced child labour have won international recognition: the 1996 Corporate Conscience Award from the US NGO Council on Economic Priorities, an invitation to the US Senate, a case study at the Harvard Business School, participation by the Manager in the French television programme *La Marche du siècle*; in essence, the provisions of the code of conduct of the Clean Clothes Campaign are already being applied by Veillon's suppliers; Veillon envisages certifying its policy for the prevention of forced child labour under the SA 8000. Besides, Veillon is a sponsor of the SOS Children's Village organisation and of the Terre des Hommes Foundation.

In an initial analysis of the replies, the campaign organisers welcomed the efforts already made and the openness to dialogue displayed by most of the companies. They also expressed their reservations: to them, the codes of conduct still frequently contain gaps, fail to address some important matters such as the minimum wage, maximum working hours, trade union rights, and the forms of monitoring and evaluation of the commitments set out in the codes of conduct.<sup>29</sup> The organisers therefore called on consumers to continue their participation in the campaign and on enterprises to align their code of conduct with the reference model based on ILO Standards.

Contact was soon made between Migros, Veillon and Switcher and the campaign organisers. The enterprises favoured the idea of an independent monitoring system - two of them already had some experience in the matter - and wanted the campaign organisers to put forward their idea of how such a system would be implemented and to assist them in the process. After some internal discussion - "Can one co-operate with some enterprises while continuing to wage a campaign critical of them?" - the Bern Declaration, Bread for All and Catholic Lenten Fund replied to the three companies that they were willing to help them establish an independent monitoring system, but on condition that they sign the Clean Clothes code of conduct and pledge to enforce it.

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<sup>25</sup> Switcher is the leading brand name of the enterprise Mabrouc SA. <http://www.switcher.ch>

<sup>26</sup> Conceived by the Council on Economic Priorities, a United States NGO, in collaboration with business, SA 8000 is a universal standard covering working conditions in industry. As with the ISO standards, (quality, environmental protection), auditing firms are accredited to issue SA 8000 certificates and to carry out regular checks in companies. <http://www.sa8000.org>

<sup>27</sup> <http://www.veillon.ch>

<sup>28</sup> Association François-Xavier Bagnoud, *Conclusions from the mandate given by Veillon SA to AFXB*, Lutry, February 1998.

<sup>29</sup> Clean Clothes Campaign, Campaign News, No. 1, May 1999.

That condition posed a problem for the companies: they could not guarantee the immediate application of the code, in particular, as concerned working hours and trade union rights. The campaign organisers then explained that they understood the constraints inherent in the companies' activities and that they were not demanding that everything should be made perfect overnight but that the enterprises undertake to promote progressive improvements amongst their partners. The companies felt reassured by this flexibility and agreed to sign the Clean Clothes code of conduct. Cooperation for the implementation of an independent monitoring system started in spring 2000.

Migros, a large distributor, Veillon, a mail-order company, and Switcher, a brand name for family clothing, became partners with the NGOs that organised the Clean Clothes Campaign. Both sides joined efforts to effect internal and external measures to publicise and implement the commitments set out in the code of conduct (train purchasers, inform suppliers, involve local employees, NGOs and trade unions). Together they drew up the broad outlines of a pilot project for independent monitoring of the application of standards in the field, in particular in India and China.<sup>30</sup> In the meantime, Veillon has given up SA 8000 certification in favour of concentrating on this pilot project.

At the time of this writing (winter 2000-2001), the partners are at the stage of setting up a structure in Switzerland and of seeking persons capable of conducting the independent monitoring. These may be members of NGOs, trade unions or local social services, supported by professional auditors; a representative of the Clean Clothes Campaign must complete the team responsible for carrying out the monitoring. The implementation of such a system is no small matter, considering that each distributor can turn to hundreds of different producers. Moreover, the matter of unionisation and the right of freedom of association must be approached delicately in some countries, such as China. The point of view of Switcher: "We will be negotiating with the provincial governments and will involve the recognised local trade unions. It will not be a matter of opposing the Chinese Government, but of jointly seeking solutions."<sup>31</sup> It is worth noting that the cost of this pilot project is being borne entirely by the three participating enterprises.

Coop, for its part, has also started dialogue with the campaign organisers. It considers the concerns of the campaign - meeting the basic requirements of the ILO, independent monitoring - as justified. But Coop sees "problems in the concept of implementation and in the way the Clean Clothes Campaign is organised and does not intend to encourage political activities aimed at its suppliers or to impose trade union activities on them". Coop is more inclined towards the system of SA 8000 certification.<sup>32</sup>

The other garment distributors targeted by the Clean Clothes Campaign did not strike up dialogue with the campaign organisers. Some intend to do so. Others are taking initiatives of their own, such as making a garment range available in their shops with a label linked to working conditions and/or social projects in the producing regions. The Clean Clothes Campaign organisers view those initiatives somewhat critically: "Only a small proportion of the garments carry the label, which represents a niche market, while nothing is being done regarding the production conditions for the range as a whole. The Clean Clothes approach is the opposite: all clothes must be clean."<sup>33</sup>

#### **2.4.4 Assessment**

Veillon believes that the commitment to improve social conditions does not engender any significant additional cost. "We can remain competitive."<sup>34</sup> Switcher also shares that view: "Our

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<sup>30</sup> Interview with Michel Egger, Bread for All, Lausanne, 22 February 2000.

<sup>31</sup> Telephone interview with Daniel Rüfenacht, Environment and Social Relations Officer, Switcher/Mabrouc SA, 17 July 2000.

<sup>32</sup> Written correspondence from Dr Felix Wehrle and Brigitte Zogg, Coop Suisse - Economy/Environment /Public Relations, 18 May 2000.

<sup>33</sup> Interview with Lara Cataldi, Bem Declaration, Lausanne, 22 February 2000.

<sup>34</sup> Interview with Jacques Zwahlen, CEO, Veillon, Bussigny, 29 May 2000.



efforts in India cost us less than 10 cents per T-shirt."<sup>35</sup> And the benefits? Information about this commitment could well redound to the benefit of the company's image, both in the public view and amongst its staff.

Migros mentions its cooperation with the Clean Clothes Campaign on the web site dedicated to the ethical and environmental dimension of its activities,<sup>36</sup> in its report of environmental activities and in the company staff magazine. "In the future, we shall be talking more about our ethical and environmental initiatives."<sup>37</sup>

Veillon, for its part, intends to conduct a pro-active public relations campaign on its participation in the Clean Clothes Campaign pilot project. "We realised that our endeavours were being well perceived and this has made us more aggressive on the public relations front."<sup>38</sup>

Lastly, Switcher informs its clients about its code of conduct and of its alignment with the reference model of the Clean Clothes Campaign in a brochure available at its sales outlets. On its Internet site, Switcher presents its social projects in India, its code of conduct and its participation in the system of independent monitoring devised by the Clean Clothes Campaign. "Our sellers are requesting more public relations material about our social activities. We are holding internal discussions on the matter".<sup>39</sup>

In a press release on 8 March 2000, the organisers of the Clean Clothes Campaign reported that Migros, Veillon and Switcher had adopted a code of conduct in conformity with the reference code and had joined in the campaign to institute independent monitoring.

Although it has led to cooperation with some distributors and producers, the Clean Clothes Campaign remains a campaign and intends to press ahead in the future with its work of awareness-building amongst consumers and of inciting companies to shoulder their responsibilities.

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<sup>35</sup> Interview with Daniel Rüfenacht, Environment and Social Relations Officer, Switcher/Mabrouc SA, Le Mont sur Lausanne, 28 April 2000.

<sup>36</sup> [www.miosphere.ch](http://www.miosphere.ch)

<sup>37</sup> Interview with Fausta Borsani, Ethics/Environment Officer of the Federation of Migros Co-operatives, Zurich, 19 May 2000.

<sup>38</sup> Interview with Jacques Zwahlen, CEO, Veillon SA, Bussigny, 29 May 2000.

<sup>39</sup> Interview with Daniel Rüfenacht, Environment and Social Relations Officer, Switcher/Mabrouc SA, Le Mont sur Lausanne, 28 April 2000.

## 3. Food industry

### 3.1 The baby milk controversy

In 1974, the English organisation War on Want published a report on infant malnutrition and on the marketing practices used to promote artificial milk in developing countries. In Switzerland, *Arbeitsgruppe Dritte Welt Bern*, a group stemming from some development NGOs, published a translation of that report under the title "*Nestlé tötet babies*".<sup>40</sup> Nestlé brought an action for libel against the group in Switzerland. In 1976, the court found in favour of the Vevey-based transnational corporation in regard to the title of the publication, and sentenced the group to pay a symbolic fine. In its comments, the court nevertheless observed: "The Nestlé company now needs to thoroughly rethink its advertising practices for infant formula in developing countries, as they can actually transform a life-saving product into a dangerous, even lethal one. If the plaintiff wishes to avoid future accusations of immoral and unethical conduct, it must change its advertising methods".<sup>41</sup>

In 1977, some US churches and NGOs called for a boycott of Nestlé products. In the name of the right to health, they accused the transnational of aggressively promoting its artificial milk to the detriment of breast-feeding in Third World countries, which had serious physiological ramifications for babies in cases of inexact dosage or where unclean water was used. Although the boycott focussed on Nestlé, a leading baby formula producer, it was also targeted at the other European and American manufacturers.

In 1981, the Assembly of the World Health Organisation (WHO) adopted the International Code of Marketing of Breast-milk Substitutes (WHO Code), which was to guide States in drafting national codes.<sup>42</sup> The purpose of the WHO Code is to protect and encourage breast-feeding and to regulate the practices of industry in marketing baby formula, including a ban on mass advertising and on the distribution of free samples to mothers.

At the end of the 1970s, in French-speaking Switzerland, a group of "befriended couples" (*ménages amis*) with Christian sympathies were discussing ways of managing their assets. They included an important individual shareholder of Nestlé, the great grandson of Jules Monnerat, syndic of Vevey, who had bought the company from Henri Nestlé in 1875. These people were wondering what attitude to take in response to the criticisms and the call for a boycott of Nestlé. Rather than part with their shares, they decided "to use their shareholder rights to infuse Nestlé with ethical and social content."<sup>43</sup> The Nestlé Shareholders Convention (CANES) was established in 1981. Its founding members included two staff members of the Bern Declaration, a Swiss development organisation.

CANES works in three ways: by its interventions at the Nestlé shareholders general meetings, through regular dialogue with representatives of the company's management (meetings and exchanges of correspondence) and by the publication of an information bulletin intended for its members and the media.

In its information bulletin of May 1982, CANES welcomed Nestlé's recent decision to apply the WHO Code and to issue instructions accordingly to the group's subsidiaries and to the agents and distributors marketing its products. CANES also realised that the criticism of Nestlé was continuing in the United States and that the call for a boycott was spreading to new countries. The

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<sup>40</sup> War on Want, *The Baby Killer*; Arbeitsgruppe Dritte Welt Bem, *Nestlé tötet babies*, Bem, 1974.

<sup>41</sup> Ruling by the Cantonal Court VIII Bem-Laupen, 24-6-1976, pp. 20-21.

<sup>42</sup> [http://www.who.int/nut/documents/code\\_english.PDF](http://www.who.int/nut/documents/code_english.PDF)

<sup>43</sup> Convention of Nestlé Shareholders, CANES, *Precursor of Responsible Shareholding in Switzerland*, 1996., p. 2.

groups critical of Nestlé were waiting to see how the company would apply the measures before considering a change in their position. CANES did not support the boycott call, but in the ensuing months and years, endeavoured to make Nestlé alive to the importance of irreproachable conduct in the field. CANES put questions to the management concerning allegations by Anglo-Saxon NGOs of violations of the WHO Code, without endorsing them, however.

In 1984, the US organisations called off the boycott of Nestlé, as the company had satisfied them in many aspects of the application of the WHO Code. Since then, discussions have been continuing on compliance with the commitments pertaining to the WHO Code. The present trend is towards the strengthening of the role of national governments in that connection.

In 1988, some Anglo-Saxon groups renewed their call for a boycott, as they felt that Nestlé was deliberately renegeing on its commitments.<sup>44</sup> The Vevey-based transnational admitted that errors were possible on the part of individuals, but categorically rejected the accusation of deliberate violations. Relations between Nestlé and these groups made virtually no headway. CANES was aware of the accusations being levelled at Nestlé. The shareholder group continued to ask questions of the management regarding marketing practices for baby food, especially with respect to the particularly controversial matter of the distribution of samples to maternity wards and hospitals. It was sometimes critical in tone, though it distanced itself from these groups who refused to recognise the progress made by the company. For some years now the company has been keeping the public informed about its actions in connection with the marketing of infant formula and the WHO code. The Internet site that Nestlé devotes to the issue tells us that in March 2000 the Swiss company launched a programme of external auditing of its practices in Pakistan, and that the audit shows that Nestlé generally observes the WHO Code.<sup>45</sup>

Since 1988 to date, some groups have been consistently calling for a boycott of Nestlé products. As the world market leader in breast-milk substitutes, Nestlé continues to be their main target. Other baby-formula manufacturers are also being taken to task in reports and articles. Among the Swiss companies, mention may be made of Migros.<sup>46</sup>

### 3.2 The social responsibility of the enterprise according to CANES

Since its creation in 1981, CANES has not confined itself to monitoring the marketing of baby milk and the application of the WHO Code. The fact is that this topic was of marginal importance to it, even though its international and media importance considerably affected the climate of relations between CANES and Nestlé. CANES therefore revived the matter and expressed its regret that the management did not recognise that it had initially been reluctant to apply the WHO Code, that it had changed its policy by committing itself to apply the Code, and that outside pressure, including that from CANES, had played a significant role in that change. CANES frequently expressed its irritation at statements from the Nestlé management, which it perceived as arrogant, self-assured and lacking in humility. But generally speaking, as pertained to the essence of the issue of the marketing of baby formula, CANES had felt satisfied shortly after its creation and soon turned its attention to other matters.

The shareholders group challenged the company on all matters in which it felt the enterprise might be playing a role, "whether positive or negative". With its successive interventions, CANES produced a human and social report on Nestlé's presence in Third World countries. How does one assess the contribution of a transnational to the social and economic development of these countries? "Can one speak definitively of improvement or worsening of living conditions?"<sup>47</sup> The

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<sup>44</sup> International Baby Food Action Network, <http://www.ibfan.org>, and Baby Milk Action, <http://www.babymilkaction.org>

<sup>45</sup> <http://www.babymilk.nestle.com>

<sup>46</sup> International Baby Food Action Network, *Breaking the Rules*, 1994, cited in the Ethical Consumer Critic Database, [www.ethicalconsumer.org](http://www.ethicalconsumer.org), 7 June 2000.

<sup>47</sup> Convention of Nestlé Shareholders, CANES, *Precursor of Responsible Shareholding in Switzerland*, 1996, p. 2.

almost 20 years' experience of confrontation and dialogue between Nestlé and CANES could contribute much to current discussion of economic globalisation, the role of multinationals and corporate social accountability.

The following paragraphs list the main observations, both positive and negative, and the proposals by CANES regarding Nestle's role in the Third World<sup>48</sup> (excepting the issue of baby formula, dealt with above); these elements were gleaned from the roughly 30 Information Bulletins published by CANES between 1981 and 2000.

### **3.2.1 Positive actions by Nestlé according to CANES**

- Encouraging agreements on raw material prices negotiated on the world market.
- Direct purchasing of raw materials from producers, providing them with technical assistance
- Marketing low-cost products made from local resources, such as soya milk
- Investing in Third World countries (entailing job creation, training, technology transfer, infrastructure development)

### **3.2.2 Negative actions by Nestlé according to CANES**

- Discontinuing the sale of low-priced staple products, such as canned foods
- Marketing of feedstuffs
- Selling Maggi cubes in Third World countries
- Preferring to invest in the United States and Europe, to the detriment of Third World countries.

### **3.2.3 CANES proposals to Nestlé**

- Give preference to the production of goods to satisfy basic needs rather than sophisticated and superfluous goods
- Market goods with a good price/nutritional quality ratio
- Sell basic essentials at cost price
- Earmark one franc per dividend for a fund to support research and development of essential products
- Improve the nutritional value of Maggi cubes

In short, the positive observations by CANES relate to Nestlé's behaviour vis-à-vis its producers, while its negative comments and its proposals essentially address the relationship between the company and the consumer and the social utility of its products. Nestlé's foreign investment policy is assessed both negatively and positively: the assessment tends to be negative with respect to investment in the North (the reproach of gigantism), and positive regarding investment in the South (contributing to development). This dual assessment reflects different moments in the history of

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<sup>48</sup> This study focuses on the social responsibility of business in developing countries. The following list does not include the CANES interventions on matters such as employment in Switzerland and Europe, the company's articles of association, shareholder rights or environmental protection measures.

the company and the reading given by CANES: a period of investment in the US and Europe, followed by a period of investment in Africa.

### 3.3 The social responsibility of the enterprise according to Nestlé

The paragraphs that follow will show how Nestlé itself defines its social responsibility: what aspects of its activities does it mainstream in discussing its social responsibility, especially with regard to developing countries? How does Nestlé define its contributions to economic and social development? In what areas does the transnational consider itself particularly useful to society?

The introduction is given by the managing director in the Business Principles of the Nestlé Group: "Nestlé carries out its global social responsibility, firstly, by taking a long term approach to strategic decision making which recognises the interests of our *consumers, shareholders, business partners, and the world-wide economies in which we operate*<sup>49</sup>".<sup>50</sup>

The following material illustrates how Nestlé puts forward the fulfilment of its social responsibility with regard to the various "*stakeholders*" cited in the introduction.<sup>51</sup>

#### 3.3.1 The consumers

"We provide foodstuffs useful to populations in the form of perishable goods transformed into conserves with a long shelf life".<sup>52</sup> For example, Nestlé is preparing to market bottled water "affordable to consumers in developing countries".<sup>53</sup>

#### 3.3.2 Business partners

Nestlé obtains its raw materials in two ways: on world markets and directly from producers. In the first instance, as regards raw material prices: "Nestlé has always supported viable international agreements to establish the stability that is in everybody's interests – farmers, manufacturers, traders, consumers and governments".<sup>54</sup>

As for the direct purchasing of agricultural raw materials: "Significant amounts of milk, coffee and cocoa are purchased directly from local producers. Nestlé supports the measures taken to improve the conditions of small farmers and their co-operatives. For example, since the 1930s, Nestlé has done pioneering work in organising the collection of fresh milk in developing countries, while green coffee is bought directly in many coffee-producing countries where Nestlé owns one - or more - instant coffee factories."

Direct purchasing offers many advantages to small producers and cooperatives: assistance from Nestlé's agricultural services for producers wishing to improve the quality and yield of their harvests and thereby fetch better prices for the raw materials they sell to Nestlé; enabling the producer to eliminate the middleman when selling his harvest".<sup>55</sup>

A brochure on the coffee cycle states that the advice given by Nestlé's agronomists to farmers is free of cost and entails no obligation to sell to Nestlé. The company purchases 15 per cent of its

<sup>49</sup> Italics added.

<sup>50</sup> Peter Barbeck-Letmathe, Managing Director, *Nestlé Business Principles*, Nestlé SA, 1999, p.3. [http://www.nestle.com/all\\_about/insight/index.html](http://www.nestle.com/all_about/insight/index.html).

<sup>51</sup> Nestlé's relations with its shareholders are not dealt with, as that complex topic is not closely related to the problems of human rights and the role of business in the Third World.

<sup>52</sup> Interview with Bernard Daniel, General Secretary, Nestlé SA, Vevey, 30 May 2000.

<sup>53</sup> [www.nestlé.com/html/fp2.html](http://www.nestlé.com/html/fp2.html), 4 October 1999.

<sup>54</sup> Nestlé UK, *The Coffee Cycle*, 1999, p. 17

<sup>55</sup> Peter Barbeck-Letmathe, CEO, *Nestlé Business Principles*, Nestlé SA, 1999, p.15.

coffee directly from producers, small farmers for the most part. As such, Nestlé purchases seven times more coffee directly from producers than all the European fair trade organisations together.<sup>56</sup> Apart from this comparison, it would be interesting to hear the viewpoint of Nestlé's managers concerning the fair trade organisations and labels: "We challenge the fair/unfair distinction drawn by organisations such as Max Havelaar, which are fundamentally critical of the free market system. As far as we are concerned, all transactions have their fair side, in that the two parties have free choice and can satisfy their interest. That said, we do not rule out the possibility that in some country and for trade strategy reasons, we may some day offer a coffee product responsive to the demands of a clientele sensitive to social issues."<sup>57</sup>

### 3.3.3 The various economies in which Nestlé operates

The matter of business partners may be considered under this heading in so far as the interests of its producers coincide with those of a country. "There is no doubt that as a purchaser of milk, Nestlé has triggered development in agriculture in the region" (Java, Indonesia).<sup>58</sup>

In a text appearing in the magazine published by the Swiss Agency for Development and Cooperation, Helmut Maucher, former Chairman of the Board of Nestlé, deals with the positive spin-offs from Nestlé's activities for the development of those countries where it is present. "The local governments know very well that direct investments by foreign companies are a durable contribution to the development of the local economy without thereby worsening the debt situation of the host country. It creates jobs, contributes technologies and new products and generates tax revenue. But the overriding effect of these investments is to stimulate the local economy. They bring suppliers, traders, banks and the administration face to face with modern demands, in that way imposing international standards. (...) Establishing a company of this type has a range of positive spin-offs. Competitors must fall in line when it comes to quality and service if they do not wish to disappear from the market. Suppliers must adapt their products to the needs of the demanding but solvent client. Executives and staff members benefit from training to which they would not otherwise have access (...). That is tantamount to a transfer of know-how which would not otherwise be possible".<sup>59</sup>

Most of Nestlé's national subsidiaries have programmes under which they contribute to the communities: financial support to NGOs active in the areas of drinking water supplies, food, hygiene and health, such as Save the Children Johannesburg and EcoLink in South Africa.<sup>60</sup>

Each year, Nestlé makes grants to development cooperation organisations such as Swisscontact and the Third World Solidarity Foundation (up to 1999), which are organisations created at the initiative of large Swiss companies.

## 3.4 Assessment

There are numerous points of disagreement between CANES and Nestlé regarding the company's relations with its *consumers*. There are considerable differences in the conceptions of the appropriateness of the company's products. CANES bases its reasoning on the right to food and on the concept of essential needs that must be satisfied as a matter of priority. For its part, Nestlé determines the product range that it sells based on considerations of profitability.

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<sup>56</sup> *The Coffee Cycle*, Nestlé UK, 1999.

<sup>57</sup> Interview with Geoffrey A. Fookes, Deputy Manager, Public Affairs and François-Xavier Perroud, Deputy Manager, Communications Department, Nestlé SA, Vevey, 30 May 2000.

<sup>58</sup> Frederico Rampini, *Nestlé in Indonesia*, Rinascita, Rome, and Publications Nestlé, Vevey, 1980.

<sup>59</sup> Helmut Maucher, *Multinationales et développement*, in *Un seul monde*, magazine of the Department for Development and Cooperation (DDC), No 3, September 2000, p. 29.

<sup>60</sup> Nestlé, *Report on the actions undertaken in connection with the WHO International Code*, No 4, April 2000. [www.babymilk.nestle.com](http://www.babymilk.nestle.com)

As regards Nestlé's commitment to the WHO Code on the right of babies to health, which also concerns relations between the company and its *consumers*, CANES seems generally satisfied.

Lastly, CANES generally approves of Nestlé on the matter of its relations with its *business partners*, and its impact on the *various economies where it operates*, these being issues broadly related to economic, social and cultural rights. That the company's activities have positive repercussions on the development of the countries where it is present is not disputed.

This comparison brings out the existence of commonalities between CANES and its social concerns on the one hand, and Nestlé and its production and marketing activities on the other. Yet each side finds it difficult to recognise this partial convergence of interests. The stances and statements would seem to indicate greater disagreement than is in fact the case.

Even though the discussions between the shareholders' group and the management of the transnational have been interesting, committed and extensive, they have also been laborious and plagued by misunderstandings. The climate became very tense at the end of the 1980s regarding issues of corporate governance. In an endeavour to defend the rights of minority shareholders, CANES took legal action after the management's decision to amend its Articles of Association for strategic reasons. The result was a lawsuit - which the shareholders' group lost - and the breakdown of talks; some observers nonetheless believe that in terms of legal practice, the lawsuit did represent a step forward for minority shareholder rights.<sup>61</sup>

CANES appreciated the fact that Nestlé had accepted dialogue at the outset, but found that the company had hardly changed at all over the years. At the last shareholders general meeting, the former CEO and Chairman of the Board stated that the relationship between CANES and Nestlé had not been satisfactory to either side. The present management in Vevey believes that CANES activities have not been useful to Nestlé, as the criticisms and demands were not shared.<sup>62</sup>

Both sides recognise that although the dialogue was most often polite, it was basically a dialogue of the deaf. Why? Here is what the president of CANES had to say: "The management were deeply convinced that they were right. The managers were confident that they would reassure and persuade us. They never conceived that we could ever have anything to teach them. The other shareholders also had a similar attitude. We were often told: 'If you are not content, sell your shares and go!'"<sup>63</sup> And the point of view of the Nestlé managers: "The people from CANES came to us with a superior moral attitude, putting things to us as an ultimatum: if you do not do that, you are 'morally wanting'. They were giving us to understand that in essence, our business was highly dubious. The fact is that dialogue was not very pleasant, it started out on the wrong footing. Yet, we are open to dialogue with any partner acting in good faith."<sup>64</sup>

At the end of the 1990s CANES scaled down its activities. Its members gave thought to the direction in which to channel their commitment. Although they still espoused the virtues of responsible shareholding, they did not intend to continue restricting themselves to the subject of "Nestlé and the Third World" but wished to expand their field of action to other Swiss companies

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<sup>61</sup> Telephone interview with Alexander de Beer, Professor at the Faculty of Economic Sciences of the University of Fribourg.

<sup>62</sup> Interview with Bernard Daniel, General Secretary, Nestlé SA, Vevey, 30 May 2000.

<sup>63</sup> Interview with Antoine Duchemin, President of CANES, Geneva, 26 January 2000.

<sup>64</sup> Interview with François-Xavier Perroud, Deputy Manager, Communications Department, Nestlé SA, Vevey, 30 May 2000.

and to sustainable development issues. CANES was dissolved and a new association created in 2000 - ACTARES - Shareholding for a Sustainable Economy (see p. 67 below).



## 4. Pharmaceutical industry

### 4.1 Pressure for access to essential drugs

Health and the right to health are amongst the major concerns of the humanitarian, development and human rights NGOs. Basing themselves on the concept of essential drugs established by the World Health Organisation (WHO),<sup>65</sup> the NGOs are militating for access to those drugs that would make it possible to treat the diseases affecting huge swathes of population in poor countries, such as AIDS, malaria, sleeping sickness or tuberculosis. They find this access to be limited. The reasons cited to explain this state of affairs include the fact that the prices of drugs and treatments often make them unaffordable; since the mid-1970s, the pharmaceutical industry has been neglecting tropical diseases and focussing on research into the treatment of the most common diseases in industrialised countries: cardio-vascular disease, cancer, depression, impotence, obesity, and so on.<sup>66</sup>

The NGOs are making their voices heard at the institutional level with a view to influencing international and national regulations and policies on public health and access to drugs. These discussions address, *inter alia*, the question of intellectual property rights over pharmaceutical products and processes, and the possibility for developing-country governments to authorise the local production of drugs still under patent. Other topics regarding the pharmaceutical and agro-chemical industry are also the subject of discussions and actions in the international political arena, primarily at the prompting of NGOs. Cases in point are genetically modified organisms (GMOs) and the issue of intellectual property of processes derived from traditional uses of natural resources. This chapter will be confined to a discussion of access to essential drugs and the positions of the NGOs and the pharmaceutical industry in that connection.

### 4.2 The social responsibility of the enterprise according to the NGOs

Whilst their foremost concern is to influence political decisions and to militate for the adoption of binding standards, the NGOs also marshal public opinion to exert direct pressure on the pharmaceutical industry. The industry is called upon to play a voluntary part in improving access to treatment for diseases in poor countries by lowering the prices of essential drugs and stepping up research into tropical diseases.

Between 1987 and 1997, the development organisation Bern Declaration published *Med In Switzerland*, a bulletin drafted with the help of pharmacists and physicians, dealing with issues relating to health and the trade in drugs, especially in the South, with a view to exerting pressure on the authorities and on the pharmaceutical industry to "contribute to the rational use of drugs".<sup>67</sup> *Med in Switzerland* highlighted two observations regarding the activities of the pharmaceutical industry in developing countries:

- The industry sells a range of drugs regarded as inappropriate, ineffective, useless or irrational: appetite stimulants for children, cough mixtures, sleeping pills, vitamins, cold medicines, etc.
- The industry sells few essential drugs.

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<sup>65</sup> <http://www.who.org>

<sup>66</sup> Bernard Pécoul, Pierre Chirac, Patrice Trouiller and Jacques Pinel, MSF, *Access to Essential Drugs in Poor Countries, A lost Battle?* The Journal of the American Medical Association, 27 January 1999, Vol. 281.

<sup>67</sup> *Med in Switzerland*, Bern Declaration, No 18-19, October 1993.

Since 1999, Doctors without Borders (*Médecins sans frontières*), MSF, have been running a campaign on access to essential medicines in developing countries.<sup>68</sup> This campaign simultaneously addresses the issues of drug prices and the absence of research and development in respect of new drugs. Above all, it entails political lobbying in international organisations. In parallel, that humanitarian organisation is looking into the possibility of turning to consumers and the forces of competition in order to spur the pharmaceutical industry into voluntary measures along the lines of those being taken in the trade of textiles and foodstuffs with regard to working conditions. MSF is thus hoping for the creation of a label that would be awarded to those enterprises most active in R&D in the field of tropical diseases. Consumers could therefore choose their aspirin or their vitamins based on the manufacturer's involvement in health matters in poor countries and its contribution to improving access to essential drugs.<sup>69</sup>

Pressure for access to essential drugs may be considered in the broader context of NGO actions designed to bring the activities of enterprises into line with the needs of the poorest countries and populations, another illustration of this being the activities of CANES vis-à-vis Nestlé. In 1988, the Swiss Coalition of Development Organisations (CTOE)(Catholic Lenten Fund, Bread for All, Caritas, Swissaid, Helvetas) published a North-South Manifesto for Sustainable Development, calling upon Swiss enterprises to take greater account of these needs, especially by improving the research capabilities of countries in the South and by allowing them better access to breakthroughs and technologies.<sup>70</sup>

### 4.3 The social responsibility of the enterprise according to Novartis

This section sets out the viewpoint of Novartis on NGO stances and demands regarding access to essential drugs (reducing drug prices, stepping up research into tropical diseases). It also includes further material illustrating the way in which Novartis defines the exercise of its social responsibility.

#### 4.3.1 The position of Novartis on NGO demands

The introduction comes from the President and member of the board of directors: "We can develop, and we want to develop only those products and technologies that benefit people, have commercial potential and take environmental concerns into account".<sup>71</sup> Novartis acknowledges that access to essential drugs for all population strata in developing countries is difficult. "Research is done based on commercial prospects. If there is no market, no purchasing power, little or no research is done".<sup>72</sup>

At a 1988 seminar, the representatives of the German pharmaceutical industry tabled their concept of poverty as a hindrance to access to essential drugs, summed up in a *Med in Switzerland Bulletin*<sup>73</sup>: a distinction must be drawn between the private and public health care sectors; the private sector must be able to offer the full range of specialty drugs to the middle and wealthy classes of the population, whilst the poor should have access to essential drugs through the public health sector if the country has an essential drugs programme. The problem is that very few developing countries have public essential drugs programmes capable of meeting the needs of patients lacking the wherewithal to seek private sector care. The current situation with regard to AIDS and other infectious diseases in Africa is a tragic illustration of this fact.

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<sup>68</sup> <http://www.accessmed.msf.org>.

<sup>69</sup> MSF, Recommendations from the Paris R&D meeting, Workshop Report, 23 November 1999, [www.msf.org/advocacy/accessmed/documentation/recom.htm](http://www.msf.org/advocacy/accessmed/documentation/recom.htm) 4 July 2000.

<sup>70</sup> Swiss Coalition of Development Organisations, Swiss Coalition News No 11, February 1997.

<sup>71</sup> Daniel Vasella, *Management Letter*, Innovation and Accountability: 1999 Report, Health, Safety, Environment, Novartis, p. 1.

<sup>72</sup> Interview with Félix Nicolier, Novartis Foundation for Sustainable Development, Basle, 19 May 2000.

<sup>73</sup> 1988 Seminar of the German Pharmaceutical Industry Association, *Arzneimittelversorgung in der Dritten Welt*, (Supplying Drugs in the Third World), in *Med in Switzerland*, Bern Declaration, No 10, August 1990.

Beyond this disheartening finding, the industry is seen to be taking initiatives and proposing partial solutions in the sphere of access to essential drugs. Novartis is experimenting with a dual-rate system for the price of anti-malaria drugs, for instance. The new Novartis product is sold to travellers from industrialised countries at a standard price, which enables the company to "make it available to the neediest patients from poor regions".<sup>74</sup> Besides, in 1999, Novartis offered a multi-drug therapy worth 30 million dollars to the WHO under the programmes of the Global Alliance to Eliminate Leprosy, whose goal is to eradicate this disease worldwide. This therapy involves three drugs, two of which "were developed a long time ago by the Basle group: Lamprène and Rimactan".<sup>75</sup> For Novartis, this move represents "a philanthropic approach to meeting the health needs of the world's poorest patients".<sup>76</sup>

Other pharmaceutical companies have taken similar initiatives. In a partnership with the WHO established in 1987, Merck made available free of cost an antidote for onchocerciasis or river blindness in West Africa; in 2000, Pfizer announced its intention to supply a drug free of cost to AIDS sufferers in South Africa; in 2000, in collaboration with several United Nations agencies, Bristol-Myers Squibb, Boehringer Ingelheim, Glaxo Wellcome, Merck and Hoffmann-La Roche pledged to drastically reduce the price of AIDS drugs sold in the poorest countries.<sup>77</sup>

#### 4.3.2 Other aspects of the social responsibility of Novartis

"Novartis, as a transnational corporation and a group with civic awareness, is committed to promoting educational and development research projects in the four corners of the globe, whether in the sphere of agriculture, the environment, health or nutrition. Pursuant to this commitment, Novartis has (...) created foundations in a number of countries".<sup>78</sup> Amongst these foundations, the Novartis Foundation for Sustainable Development focuses specifically on problems affecting developing countries.<sup>79</sup>

Novartis regularly consults with the Novartis Foundation for Sustainable Development, formerly the Ciba Geigy Foundation for Co-operation with Developing Countries (created in 1974). The Foundation gives its opinion on the company's commercial plans and their impact on developing countries. The Foundation sometimes influences the company's policy directions. By way of example, the company wanted to discontinue production of the active ingredient in Lamprène, the anti-leprosy drug difficult to manufacture and with limited commercial prospects. "The Foundation insisted, pursued the dialogue, and finally persuaded the firm to continue production of this drug".<sup>80</sup>

The main activity of the Novartis Foundation for Sustainable Development is supporting development projects in the areas of health, agriculture and social development. These projects are selected independently of the economic interests of Novartis. "The selection of development projects and project management are determined purely on the basis of development-related criteria".<sup>81</sup>

The Foundation's budget was 11 million Swiss francs in 1999; it employs six full-time staff. The Foundation does not itself send out field workers, but operates through partners: government departments, international organisations such as the World Health Organisation, World Bank or the United Nations Development Programme and international and local NGOs. Its activities are not

<sup>74</sup> Novartis, Innovation and Accountability: 1999 Report, Health, Safety, Environment, Novartis, p. 5.

<sup>75</sup> Roland Rossier, *Novartis promet 30 millions pour éradiquer la lèpre*, le Temps, 16 November 1999.

<sup>76</sup> Novartis, Innovation and Accountability: 1999 Report, Health, Safety, Environment, Novartis, p. 5.

<sup>77</sup> For the viewpoint of the international pharmaceutical companies, c.f. <http://www.ifpma.org>

<sup>78</sup> <http://www.fr.novartis.com>

<sup>79</sup> <http://www.foundation.novartis.com>

<sup>80</sup> Interview with Félix Nicolier, Novartis Foundation for Sustainable Development, Basle, 19 May 2000.

<sup>81</sup> Novartis Foundation for Sustainable Development, Report 1999-2000, p. 29.

limited to project financing. "We are not just donors, we participate in the entire project cycle. We control the targeted use of our resources and commission independent project evaluations."<sup>82</sup> Some examples of projects supported by the Foundation are: an agricultural research station in Mali (with the national government), an agricultural extension pilot scheme in Laos (with the national government), a training centre for sustainable agriculture in the Philippines (project assessed, *inter alia*, by an agronomist from Helvetas-Philippines), an international anti-leprosy programme which, apart from drug donation, involves awareness-building ("destigmatisation", social marketing), a project to support children orphaned by AIDS in Tanzania (set up by Terre des hommes-Switzerland), an education and training project for women in Bangladesh.

The Novartis Foundation for Sustainable Development also participates in scientific and political discussions on development issues. It has numerous publications to its credit. It is regularly consulted on matters pertaining to Swiss development cooperation policy, on the same basis as the NGOs. The Foundation thus has the opportunity to pursue dialogue with NGOs in formal settings - federal commissions, - and informal ones - symposia, debates, etc.

Lastly, Novartis is a member of the Philiias Corporate Citizenship Swiss Network, a Swiss network of corporate citizens<sup>83</sup>. The companies members of the Philiias network commit themselves to display initiative with regard to corporate social responsibility and to promote socially innovative initiatives in their spheres of operation. Philiias is the Swiss representative of the European Business Network for Social Cohesion.<sup>84</sup>

#### 4.4 Assessment

The NGOs are calling on the pharmaceutical industry to take account of the needs of persons suffering from contagious diseases in poor countries by adjusting the price of drugs and investing in research into these diseases. The industry is having some difficulty in meeting these demands, in that the commercial prospects are negligible. The industry - Novartis in this case - is nevertheless taking initiatives that meet those demands very partially: donation of drugs, reduction in sales prices, support for development projects. But on the whole, the problem of access to essential drugs in poor countries remains unresolved, when we consider the paucity of public resources available.

There is still a wide gap between the social vision espoused by the NGOs - the industry must, as a matter of priority, supply products that meet essential needs - and the economic vision guiding the practices of the industry - the products sold by the company must meet a solvent demand, whether it represents essential needs or not. This is the same divide that was evident between the viewpoints of CANES and Nestlé concerning the products sold by the company. It is a difference between one conception based on an analysis of the social utility of products and another based on the evaluation of the potential profitability of the products. This has been clearly understood within the Novartis Foundation for Sustainable Development: "There is marketing pressure, the seller of drugs cannot let up. For example, cold drops do very well in Africa: is this an essential drug?"<sup>85</sup>

The enterprises and the NGOs are pursuing different, sometimes conflicting objectives, which complicates dialogue, in particular between NGOs and transnational corporations. Indeed, NGO comments on social initiatives taken by the industry are generally sceptical. This is true of their public stances at any rate. After the announcement by certain firms of their commitment to supply drugs free of cost or to allow appreciable price cuts, the NGO reaction is often that this is insufficient, that more is needed, that it is no more than a marketing operation, a fig leaf concealing the avid quest for profit. Similarly, as pertains to an initiative such as the Novartis Foundation for

<sup>82</sup> Novartis Foundation for Sustainable Development, Report 1999-2000, p. 32.

<sup>83</sup> Of the companies interviewed for this study, Veillon is also a member of Philiias. <http://www.philiias.org>

<sup>84</sup> <http://www.csreurope.org>

<sup>85</sup> Interview with Félix Nicolier, Novartis Foundation for Sustainable Development, Basle, 19 May 2000.

Sustainable Development, NGOs have a mixed judgement or no comment at all. The feeling within the Foundation is the following: "Amongst the NGOs and in the media, there are a priori misgivings about the quality of the Foundation's work. We are not given the benefit of the doubt, we are condemned without being granted a hearing. It is true that the Foundation for its part does not have much good to say about some NGOs. There is a wall..."<sup>86</sup> In private, the discourse is somewhat different, there are cracks in the wall. Many NGO members with whom we have spoken do believe that the Novartis Foundation for Sustainable Development is doing effective and useful work, that it is a credible player in development cooperation. Inversely, the Foundation's members recognise that some NGOs are doing a excellent job; besides, the Foundation provides funding to several NGOs and entrusts some of them with executing its projects.

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<sup>86</sup> Interview with Oumar Niangado, Representative of the Novartis Foundation for Sustainable Development in Mali, Basle, 19 May 2000.

## 5. Power industry

### 5.1 Large dams

In Asia, Africa and Latin America, public and private enterprises are engaged in major dam construction projects to generate electricity and to be able to control water levels. The World Bank has helped fund many of these projects. To build a dam, a reservoir must be created, which necessitates the displacement of populations, and brings environmental consequences (which are not dealt with in this study). The Three Gorges dam project in China, for instance, is displacing 1.3 million people.<sup>87</sup> Compensation is planned for these people, in the form of money and/or cultivable land. Members of the communities to be displaced regularly organise protest actions.

The criticisms from environment protection and development NGOs are based on an analysis of the environmental and social impact of major dam projects. International coalitions have formed around these issues. In Switzerland, the Bern Declaration and the Swiss Coalition (Swissaid, Helvetas, Caritas, Catholic Lenten Fund and Bread for All), as development policy organisations, have for many years now been engaging in protest actions and public awareness-raising campaigns as to the social impact of large dams. According to these NGOs, those affected by the major dam-building projects are regularly subject to forced displacement, and compensation (money, land) is non-existent or insufficient, which works against their economic, social and cultural rights. Broadly speaking, the NGOs accuse the governments of neglecting the people affected, whether they themselves are in charge of the project, which is often the case, or whether it is in private hands.

NGO actions are concentrating on some of the larger projects, such as the Three Gorges dam in China, Illisu in Turkey or Maheshvar in India. ABB,<sup>88</sup> the Swiss-Swedish industrial group supplying the equipment used in the building of these dams, is a target of these actions. Other Swiss companies such as Sulzer and Credit Suisse Group have also been challenged by NGOs over their direct or indirect involvement in these projects. The following paragraphs deal only with NGO criticisms and demands addressed to ABB concerning the Three Gorges dam, which is considered the world's largest hydroelectric project; NGO activities with respect to ABB's participation in the Maheshvar dam in India are also mentioned.

### 5.2 The social responsibility of the enterprise according to the NGOs

In August 1997, the Bern Declaration, Greenpeace and the WWF launched the campaign against Switzerland's participation in the Three Gorges dam. This campaign was aimed simultaneously at influencing Swiss government policy and the behaviour of the Swiss enterprises concerned. The Bern Declaration,<sup>89</sup> as well as the Swiss Coalition,<sup>90</sup> which is particularly active in political lobbying, called on the Federal Council to refrain from supporting ABB's participation in the project for the construction of the Three Gorges dam by denying it the export risk guarantee (ERG).<sup>91</sup> In general terms, the NGOs wished to see the government's human rights and development objectives more strongly reflected in foreign economic policy decisions, especially as

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<sup>87</sup> ABB, Environmental Management Report 1997, p.32.

<sup>88</sup> [www.abb.com](http://www.abb.com).

<sup>89</sup> <http://www.evb.ch>

<sup>90</sup> <http://www.swisscoalition.ch>

<sup>91</sup> <http://www.swiss-erg.com>

regards the granting of the ERG.<sup>92</sup> They asked to be included in the ERG Commission's decision-making process.

The campaign was also aimed directly at the behaviour of ABB. The NGOs demanded that the Swiss company should cease its participation in the building of the Three Gorges dam, for which project the Chinese Government is responsible. As they see it, the human and environmental cost of projects of this kind is too high, and they must therefore be opposed.<sup>93</sup> The NGOs urged ABB to invest instead in the development of alternative renewable energy sources (wind, geothermal, solar, etc.). In support of their claims, the NGOs also adduced purely economic arguments: large dams represented outdated technology, their profitability was low, the financial risks were high and ABB's competitors were investing in new technologies.

Being particularly involved in initiatives directly targeting the company, the Bern Declaration endeavoured to influence the ABB's position by press releases and open letters, by appealing to sympathisers to send postcards and by intervening in the general meetings of shareholders, with the support of foreign NGOs and, in 1998, by an institutional shareholder, the Civil Servants' Pension Fund of the Canton of Geneva (CIA). In a press release dated 6 May 1999, the Bern Declaration stated that the Maheshwar dam project in India would displace 20,000 people, including some involved in growing organic cotton intended for use in garment-making for Coop. Coop itself has taken no position on the building of large dams, but points to the viewpoint of the foundation it supports for funding development projects in India: that foundation "views criticism of the dam as largely warranted and intends to support the farmers affected".<sup>94</sup>

The public NGO actions were complemented by dialogue with ABB representatives, through an exchange of correspondence and some interviews. Realising that their main demand - that ABB withdraw from major dam construction projects - was not being met, the NGOs requested that ABB make representations to the authorities so that compensation for populations could be improved and work halted in the meantime. The position of the Bern Declaration regarding the Three Gorges dam: "ABB should start talks with the Chinese Government, make demands and seek to obtain sufficient guarantees before committing itself, just like the World Bank, which established the principles of land-for-land compensation and the rehabilitation of communities".<sup>95</sup>

In 1998, a World Commission on Dams<sup>96</sup> was set up mainly at the initiative of the World Bank. The Commission's task was to look into the consequences of large dams, specifically the environmental and social ones, and to draft recommendations in a final report, which was to be published in November 2000.<sup>97</sup> The Commission comprises representatives of the industry, including the ABB General Manager, scientific experts, government officials and members of environmental and development organisations that are critical of large dam projects. The Bern Declaration, which contributes symbolically to its funding and has observer status, welcomes the presence of ABB in this Commission, which it sees as a sign of goodwill and an outcome of pressure from civil society.<sup>98</sup>

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<sup>92</sup> For a critical analysis of the ERG, c.f. Pier-Luigi Giovannini, *Une corruption légale*, in M. Borghi, P. Meyer-Bisch (éd.), *La corruption, l'envers des droits de l'homme*, Fribourg : Ed. universitaires, 1995, p. 271-275.

<sup>93</sup> Telephone interview with Thierry Pellet, Bem Declaration, 27 March 2000.

<sup>94</sup> Written communication from Dr Felix Wehrle and Brigitte Zogg, Coop Suisse - Economy/Environment /Public Relations, 18 May 2000.

<sup>95</sup> Telephone interview with Thierry Pellet, Bem Declaration, 27 March 2000

<sup>96</sup> <http://www.dams.org>

<sup>97</sup> <http://www.damsreport.org>

<sup>98</sup> Telephone interview with Thierry Pellet, Bem Declaration, 27 March 2000.

### 5.3 The social responsibility of the enterprise according to ABB

This section outlines ABB's position regarding NGO demands (ceasing participation in major dam projects; influencing the promoters on social issues), as well as other elements adduced ABB in describing its conception of corporate social responsibility.

#### 5.3.1 Ceasing participation in major dam projects

ABB does not intend to cease participation in the building of large dams for the reasons being advocated by the NGOs. The industrial group believes that the overall effects of large dams are positive for the populations. It weighs up the one million people who will be displaced against the millions of others who will benefit from the control of water levels (reduced flooding), the irrigation and the electric power generated by the likes of the Three Gorges dam. Here is the ABB line of reasoning: "The NGOs lack objectivity in their analysis, they focus on the communities directly affected, without considering the overall impact of a dam, the advantages for a country's whole population. We must respect the right of the Indians or the Chinese to develop themselves, to raise their standard of living. A balance must be struck between a country's development and the disadvantages to displaced people".<sup>99</sup>

ABB adds that even if the enterprise decided to withdraw from a major dam project because of its perceived negative social and environmental impacts, that decision "would perhaps not lead to the cancellation of the project. Indeed it could well mean that the project would be executed using suppliers less mindful of its environmental implications than ABB".<sup>100</sup>

#### 5.3.2 Influencing project promoters on social issues

ABB believes that the matter of settling the social issues bound up with the construction of major dams is not within its purview. Such matters are the responsibility of those running the project - the Chinese Government in the case of the Three Gorges dam. Intergovernmental banking institutions such as the World Bank can exert pressure in regard to the environmental and social measures to be taken. The World Commission on Dams could also play such a role. In contrast, for a company like ABB, it is difficult to exert such pressure because of the competition with rival enterprises. Another reason given: "ABB is the supplier of a client. The supplier is not at liberty to speak on behalf of the client, who would not accept that. If we were working for the Swiss electricity industry, for instance, and we publicly criticised its methods, it would go down very badly".<sup>101</sup>

#### 5.3.3 Other aspects of ABB's social responsibility

In 1999, ABB launched a process of social reporting. The group's annual report contains an inventory of ABB's social contributions. One passage mentions the working conditions and rights of ABB employees. In essence, this first attempt at social reporting sets out a series of initiatives taken by the group's national subsidiaries. For example, ABB supports nutrition and AIDS projects in Brazil, it has contributed funding to the countries hit by hurricane Mitch in Central America, it gives aid to an organisation running educational projects in Egypt, it supports social development projects in India and Peru, and the building of an SOS Children's Village in Kazakhstan.<sup>102</sup>

In an article appearing in Time Magazine in January 2000 entitled *A New Role for Global Businesses - Multinational firms must make protecting human rights a priority*,<sup>103</sup> the ABB Managing Director and President stated that transnationals must henceforth act as "co-guarantors of human rights". He proposed that there should be a UN-sponsored agreement "giving business an integral role in ensuring the observance of the Universal Declaration of Human Rights. Such a pact

<sup>99</sup> Interview with Michael Robertson, Vice-President Environmental Affairs, ABB Corporate Management Services AG, Zurich, 26 May 2000.

<sup>100</sup> ABB, Environmental Management Report 1997, pp. 32-33.

<sup>101</sup> Interview with Michael Robertson, op. cit..

<sup>102</sup> ABB Group Annual Report 1999.

<sup>103</sup> Göran Lindhal, *A New Role for Global Businesses - Multinational firms must make protecting human rights a priority*, Time, 31 January 2000.



would aim at widening corporations' transfer of know-how into emerging markets to include the sharing of democratic habits". Mr. Lindhal gave examples from the enterprise, which he has since left: "In ABB, we did this in the Balkans by making sure we got Serbs, Kosovars and Bosnians to work together to rebuild war-damaged electricity infrastructure. In an emerging market country, we once talked the government into offering squatters along a future power transmission line financial incentives to move, instead of using the army to evict them."

Lastly, ABB has been supporting the Global Compact<sup>104</sup> since its 1999 launch by the Secretary-General of the United Nations, Kofi Annan, with the approval of the International Chamber of Commerce.<sup>105</sup> The Global Compact calls on enterprises active internationally to give labour rights, human rights and environmental protection a greater role in their activities. They are urged to avoid any complicity in human rights violations and to promote human rights in their spheres of influence. The Global Compact is a call to voluntary private-sector initiatives. These may take the form of individual initiatives or of partnerships amongst enterprises and United Nations specialised agencies. Several transnationals are now engaged in dialogue and are drawing up projects with the United Nations agencies in that framework. Some NGOs are also part of the Global Compact: Amnesty International, Human Rights Watch, WWF, etc.

#### 5.4 Assessment

The NGOs and ABB have found no common ground on the matter of major dams, except regarding the company's participation in the World Commission on Dams.

A comparison of the arguments of NGOs and those of ABB reveals a conflict concerning rights: The NGOs speak of the economic, social and cultural rights of those displaced by dam projects, whilst ABB speaks of the same economic, social and cultural rights, particularly that of development, of the peoples who will use the electricity produced by the dams.

In the view of the NGOs, ABB's position has not changed with respect to the Three Gorges dam. Although the NGOs did not succeed in having the ERG withheld<sup>106</sup>, this campaign seems to have positively impacted the Federal Council's position on NGO participation in decision-making by the Commission on Export Risk Guarantees. This Commission recently gave the NGOs a hearing on the matter of the Illisu dam in Turkey.<sup>107</sup>

ABB for its part found the NGO criticisms surprising and unwarranted. "This experience of confrontation and dialogue with NGOs was new to ABB. We were unprepared for it. Now, we seek dialogue with the NGOs".<sup>108</sup>

#### 5.5 Epilogue

At the end of spring 2000, ABB announced that it was to divest its hydroelectric division. Its business in that sector has been sold. That decision was dictated by economic considerations: the group intends to concentrate on high technology and on certain forms of renewable energy production such as wind energy, which offers better profit prospects, especially in the context of the liberalisation of electricity markets and the possibility for consumers to choose their type of energy. In the words of a representative of the industrial group: "the NGO-led controversy over

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<sup>104</sup> <http://www.unglobalcompact.org>

<sup>105</sup> <http://www.icc.org>

<sup>106</sup> For the position of the Department for the Economy regarding the guarantee against the export risks bound up with the Three Gorges dam in China, <http://www.admin.ch/cp/f/37E7A6DE.CB056EF4@seco.admin.ch.html>

<sup>107</sup> Interview with Peter Niggli, Director, Swiss Coalition of Development Organisations Geneva, 14 March 2000.

<sup>108</sup> Interview with Michael Robertson, Vice-President Environmental Affairs, ABB Corporate Management Services AG, Zurich, 26 May 2000.

large dams is not amongst the reasons for the change of strategy decided by ABB".<sup>109</sup> For its own reasons, ABB thus took a decision that seemed to coincide with NGO wishes. "We hope that the NGOs will express their satisfaction at our withdrawal from major dam projects. We often hear from them when they are discontented with what we do, but rarely when they are satisfied".<sup>110</sup>

Here is the viewpoint of the Swiss Coalition of Development Organisations (Catholic Lenten Fund, Bread for All, Helvetas, Caritas, Swissaid): "ABB has started to orient its technology towards small- and medium-scale energy production, which is a good thing."<sup>111</sup> And the reaction of the Bern Declaration: "We welcome this ABB initiative. When we intervened in the shareholders general meeting in 1998, we had asked ABB to give up major dam projects and to invest in alternative renewable energy sources. That proposal had been roundly rejected. Today, by embarking on this process, ABB has vindicated our way of thinking".<sup>112</sup>

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<sup>109</sup> Interview with Michael Robertson, *op. cit.*.

<sup>110</sup> Interview with Michael Robertson, *op. cit.*

<sup>111</sup> Written communication from Peter Niggli, Director, Swiss Coalition of Development Organisations, 14 September 2000.

<sup>112</sup> Telephone interview with Thierry Pellet, Bern Declaration, 17 July 2000.

## 6. Banks

### 6.1 Dictators' assets

It may happen that a head of State or a minister appropriates public monies for private use. Those funds are of domestic origin (e.g., taxes, revenue from state-owned companies) and/or of foreign origin (international loans, development aid). With the help of their close collaborators, these politicians generally arrange for the embezzled funds to leave the country for safekeeping. Banking establishments the world over are approached for this purpose. The perpetrators and their partners in crime use a range of stratagems to ensure discretion (false identities, borrowed names, umbrella companies, etc.)

Like other financial centres, Switzerland is concerned by this problem. The banks have voluntarily taken a series of steps intended to regulate the profession and Switzerland has legal instruments to prevent and combat such practices. Amongst other things, these instruments entail verifying the origin of funds and the identity of the clients (Criminal Code, Money Laundering Law). The most recent of these instruments, the Federal Banking Commission's Directives on Money Laundering, formalises principles "regarding the assets of persons holding important public office", and treats the receiving of funds derived from the misappropriation of public assets as money laundering.<sup>113</sup>

The NGOs have concluded that the misappropriation of public funds effectively limits the possibilities for financing public policies, especially in the sphere of economic and social development and is therefore an obstacle to the realisation of economic, social and cultural rights in the countries concerned. Some NGOs accuse banks of not being as vigilant as possible to avoid giving shelter to such fugitive capital. Numerous campaigns have been mounted in this regard.

### 6.2 The social responsibility of the enterprise according to the NGOs

Action Financial Centre Switzerland (AFS, *Aktion Finanzplatz Schweiz*) was founded in 1978 in order to monitor the activities of the Swiss financial centre.<sup>114</sup> AFS is supported by several small and medium-sized NGOs and by larger organisations such as the Bern Declaration and Terre des hommes - Switzerland.

Since its inception, AFS has been striving to influence Swiss legislation on the activities of banking and financial establishments. In parallel, AFS has been directly challenging and urging banks to display irreproachable conduct in matters pertaining to the interests of developing-country populations, in particular concerning the embezzlement of public monies. "We have worked on the Marcos, Duvalier and Mobutu cases, for instance. Actions were taken to sensitise public opinion, there were press releases and direct approaches to the management of banks and to shareholders, mainly in co-operation with the Association of Critical UBS Shareholders".<sup>115</sup>

In 1981, AFS and the Bern Declaration<sup>116</sup> started a campaign centred on a Manifesto for a Switzerland without fugitive capital (*Manifeste pour une Suisse sans capitaux en fuite*). That Manifesto cited a study that estimated private fortunes from the Third World being managed in Switzerland at 250 to 300 billion francs, "most of which being fugitive capital", "about one-quarter of all fugitive capital from the Third World". For the authors of the Manifesto, "this policy on the

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<sup>113</sup> Federal Banking Commission, <http://www.ebk.admin.ch>

<sup>114</sup> <http://www.aktionfinanzplatz.ch>

<sup>115</sup> Interview with Gertrud Ochsner, Action Financial Centre Switzerland, Zurich, 31 January 2000.

<sup>116</sup> <http://www.evb.ch>

part of Swiss banks favours corrupt elites and governments and helps to compound the poverty of peoples".<sup>117</sup>

The Manifesto for a Switzerland without fugitive capital called for tougher laws to step up the prevention of capital flight and called on banks to disclose their figures on the provenance, by country, of the assets under management. The Manifesto was supported by a number of NGOs, including the Catholic Lenten Fund, Helvetas, Protestant Aid, Bread for All, Swissaid and Terre des Hommes - Switzerland.

Transparency International (TI) and its Swiss branch Transparency Switzerland<sup>118</sup> (T-CH) are devoted to combating corruption. This NGO also deals with the problem of embezzlement of public funds in developing countries and the role of Swiss banks in that connection. Here is what its president had to say: "The attitude of Swiss banks baffles me. If they have learned nothing since the scandal over dormant accounts, it is distressing. The Abacha funds scandal could not be a case of negligence. If nothing is triggered in the junior officer's mind, it means that no instructions have been given from the top".<sup>119</sup>

### **6.3 The social responsibility of the enterprise according to UBS and Credit Suisse Group**

This section describes the position of Credit Suisse Group and UBS with respect to NGO criticisms and demands concerning the role of Swiss banks in connection with dictators' funds. It also includes other elements supplied by the two companies to illustrate the way they define and exercise their social responsibility.<sup>120</sup>

#### **6.3.1 The position of Credit Suisse Group and UBS on NGO demands**

As far as **Credit Suisse Group (CSG)** is concerned, "Not even the toughest legal provisions will prevent people from lying and abusing banking secrecy and the Swiss financial centre in an attempt to place their money. It is not in the interests of any serious bank to receive money from dictators: the penalties are potentially severe, and damaging to the image of the enterprise. There is a very widespread public perception that banks make a lot of money from fugitive capital. This is wrong. When we compare the supposedly fugitive capital with the total amount of funds under management, it does not even account for 1 per cent. And even if we were to be completely cynical, dictators' money would not represent a large market".<sup>121</sup>

"In the Abacha case, it was difficult to make the connection between his two sons, as they do not have the same name as he does. The bank has taken the initiative of drawing up a list of politically exposed persons with whom it does not wish to do business. One could conceive of a situation in which the Swiss Government supplies banks with a list also including the immediate family of these persons. Yet, for obvious reasons, the Government will not do this, as it would create a myriad of diplomatic problems."<sup>122</sup>

Regarding the recent Abacha scandal: "Monitoring the origin of funds from these clients is incumbent on employees, their superior, their superior's superior... in short, on a chain of responsibilities in which human error is possible. No system of monitoring will ever be fail-safe. Besides, 17 other Swiss establishments also ended up being misused".<sup>123</sup> "In the rare cases where

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<sup>117</sup> Manifesto for a Switzerland without fugitive capital, Bem Declaration, Action Financial Centre Switzerland, 1991.

<sup>118</sup> <http://www.transparency.ch>

<sup>119</sup> Interview with Philippe Lévy, President, Transparency Switzerland, Bern, 28 January 2000.

<sup>120</sup> For the viewpoint of the Swiss Bankers' Association, <http://www.swissbanking.org>

<sup>121</sup> Interview with André-Lou Sugar, Member of the Management, Press Relations, Credit Suisse Group, Zurich, 15 June 2000.

<sup>122</sup> Interview with Paul Rhyn, Vice-President Public Affairs, Credit Suisse Group, Zurich, 15 June 2000.

<sup>123</sup> Lukas Mühlemann, CEO and Chairman of the Board, Credit Suisse Group, *Bilan*, June 2000, p. 53.

we do enter into undesirable business relations, we regret it as soon as we realise it and do the utmost to terminate them".<sup>124</sup>

**UBS.** "UBS strives to ensure strictest application by all its divisions of the legal and internal measures designed to combat money laundering, which includes identifying the client and the beneficiary. The bank wants to know its client and takes all the steps possible to avoid being misused for the laundering of funds derived from criminal activity".<sup>125</sup>

**Credit Suisse Group and UBS.** In November 2000, a dozen internationally active banks, including Credit Suisse Group and UBS, adopted the Wolfsberg Principles, a series of voluntary measures that should enable them to participate more effectively in the fight against money laundering ; the Wolfsberg Principles were drawn up in cooperation with the NGO Transparency International.<sup>126</sup>

### 6.3.2 Other aspects of the social responsibility of Credit Suisse Group and UBS

**Credit Suisse Group.** The 1999-2000 annual report includes a heading Credit Suisse Group and the public, containing information that reflects the way the enterprise defines and exercises its social responsibility. Accordingly, the CSG provides 15 millions francs per year in support for social or charitable organisations. These include the ICRC, Swisscontact and the Third World Solidarity Foundation, which are active in the humanitarian work and in development cooperation. That section also discusses the role played by the enterprise in the discussions held and steps taken in regard to the part played by Swiss banks during the Second World War (global agreement on dormant assets). Besides, Credit Suisse Group offers environmental and ethical investment funds to its clients.

**UBS.** The bank supports development co-operation organisations such as Vivamos Mejor, Third World Solidarity and Swisscontact. It also supports the Foundation Terre des Hommes and the Theodora Foundation. Like other banks, UBS offers environmental and ethical investment funds to its clients. "UBS has also launched the UBS Optimus Foundation in order to support projects in the social, scientific and cultural fields. Therefore, thanks to this Foundation and the fund newly created for it, the bank offers its clients the possibility of contributing to charitable works in which it is involved. The Theodora Foundation and the Conseil Pasteur Weizmann were the first examples of partnerships created within the framework of the UBS Optimus Foundation".<sup>127</sup>

UBS supports the United Nations Global Compact<sup>128</sup> (see 5.3.3.). Lastly, UBS is a member of the World Business Council for Sustainable Development (WBCSD), an organisation whose membership includes several transnationals and which provides information on and conducts research into sustainable development.<sup>129</sup> UBS is part of the WBCSD working group on corporate social responsibility. As such, it takes part in seminars designed to identify criteria for drawing up a social report and measuring the social performance of enterprises. Of those criteria, human rights constitute a frequently recurring topic of discussion, more specifically concerning forced labour,

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<sup>124</sup> Lukas Mühlemann, CEO and Chairman of the Board, Credit Suisse Group, Group News, staff magazine, March 2000, p. 13.

<sup>125</sup> Written communication from Bernhard Stettler and Katrin Gröflin-Alig, Group Public Relations, Public Affairs, UBS AG, 10 July 2000.

<sup>126</sup> <http://www.transparency.org>

<sup>127</sup> Written communication from Bernhard Stettler, Head Group Public Relations, UBS AG, 31 August 2000.

<sup>128</sup> Written communication from Bernhard Stettler and Katrin Gröflin-Alig, Group Public Relations, Public Affairs, UBS AG, 10 July 2000.

<sup>129</sup> <http://www.wbcsd.org>

child labour, the rights of indigenous peoples, working conditions, social justice, and oppressive regimes.<sup>130</sup>

#### 6.4 Assessment

On the matter of sheltering dictators' money, there are wide divergences between the thinking of NGOs and that of the large banks, and the discussions are laborious. The NGOs accuse the banks of knowingly profiting from situations that amount to limiting the possibilities of enjoying economic, social and cultural rights in poor countries. As far as the banks are concerned, the problem boils down to a few regrettable individual mistakes and certainly does not reflect a deliberate practice. Generally speaking, dialogue on human rights between the NGOs and the banks is difficult to non-existent. It is rather a case of two completely divorced monologues. The NGOs launch critical campaigns on the one hand, and the banks for their part take initiatives, whether alone or together with other enterprises in the framework of professional or economic organisations, or in partnerships with international organisations. Partnerships between banks and NGOs are limited to a handful of operations involving donations and sponsorship.

As far as the Bern Declaration is concerned, dialogue with banks is more difficult than with other companies. The Bern Declaration has repeatedly invited banks to a discussion. "It has never been possible to get a banker to discuss the question of fugitive capital."<sup>131</sup> Credit Suisse Group has a different view of things: "I do not recall our ever having refused dialogue with the NGOs. We agree to it if they are willing to listen to our arguments. It all depends on the form of the debate".<sup>132</sup>

For Credit Suisse Group: "The NGOs represent a new player that does not operate through the traditional institutional channels. We place the NGOs in a very broad spectrum. Some of them speak the language of economics and understand the banker's profession. One can therefore talk with those. Others are aggressive, they launch surprise attacks against us in the media without taking the trouble of trying dialogue. It is sometimes difficult to situate the NGOs in this spectrum. Experience shows that dialogue is easier with environment protection organisations than with human rights and development organisations".<sup>133</sup>

At Action Financial Centre Switzerland, it has been possible to hold discussions with representatives of banks, especially during the process of returning the Marcos funds to the Philippines. "There were direct contacts. The problem was that on sensitive matters, bank representatives would only express personal opinions, on an informal basis. The dialogue was not productive. To be fruitful, it needs a framework, an agenda, a goal".<sup>134</sup>

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<sup>130</sup> World Business Council for Sustainable Development, *Corporate Social Responsibility Stakeholder Dialogue Session, Values/Core Issues Assessment, Attachment C*, September 1998.

<sup>131</sup> Written communication from Thierry Pellet, Bern Declaration, 11 April 2000.

<sup>132</sup> Interview with André-Lou Sugar, Member of the Management, Press Relations, Credit Suisse Group, Zurich, 15 June 2000.

<sup>133</sup> Interview with Paul Rhy, Vice-President Public Affairs, Credit Suisse Group, Zurich, 15 June 2000.

<sup>134</sup> Interview with Gertrud Ochsner, Action Financial Centre Switzerland, Zurich, 31 January 2000.

## 7. Industry and banks

In the globalised economy, enterprises maintain relations with the governments of many countries. A company that invests directly in a country receives operating licenses, pays taxes, etc.; a company may make investments in partnership with a government; it may supply products from abroad to government-controlled enterprises in a country, or to the government itself; a company may maintain financial relations with a government (e.g. granting of loans, bond issues); an enterprise that markets products or services in a country is in touch with the government in that the latter grants permits and collects levies and the like.

NGOs endeavour to influence government policies so as to further development, human rights, humanitarian work, peace or environmental protection. To that end, they carry out actions directly targeted at governments, such as interventions in the United Nations before the Commission on Human Rights. NGOs also endeavour to influence the behaviour of governments by focusing on the latter's relations with foreign companies. This is how enterprises find themselves challenged by the NGOs over their international presence and their actual or potential influence on their government interlocutors.

### 7.1 Relations with South Africa under apartheid

Since the 1960s until its demise in the early 1990s, the apartheid regime drew much international criticism. States adopted economic sanctions, civil society movements called for a boycott of South Africa, companies, especially US companies, announced disinvestments, the UN condemned the regime and adopted sanctions. Switzerland, for its part, although condemning the apartheid regime, rejected economic sanctions; yet a ceiling was set for capital movements. The path chosen by the Confederation was to support development co-operation projects and organisations working for democracy whilst maintaining dialogue with the South African authorities. In actual fact, Swiss companies could continue their activities in or with South Africa.<sup>135</sup>

Swiss development NGOs and church-related groups took a different line: they wanted the Confederation to adopt sanctions, they campaigned for a boycott of South Africa and pressured companies to scale back or end their activities involving that country. According to the NGOs, the effect of these activities was to strengthen the position of the racist government and delay the introduction of democracy. Banks and industry were the prime targets of these pressures.

The NGOs continued to follow up the South African case after the first democratic elections in 1994. They have been looking at the role played by the Swiss economy during apartheid and are taking up the claims being voiced today by South African NGOs. The latter take the view that the debt incurred during the apartheid era is "odious" and that the players who had maintained relations with South Africa should now cancel that debt and grant compensation for the human rights violations committed at the time.

The following paragraphs sum up the actions taken by Swiss NGOs during and after apartheid, and the position of the enterprises. Finally, an assessment is made of the dialogue between NGOs and enterprises concerning economic relations between Switzerland and South Africa. The broader question of economic relations with countries criticised for their human rights record is also broached.

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<sup>135</sup> Interdepartmental Group Switzerland - South Africa, *Relations between Switzerland and South Africa*, Swiss Confederation, Bern, July 1999, [http://www.dfe.admin.ch/dynamic/Presse\\_Rohstoff/CH\\_RSA/F/af\\_sud\\_1f.htm](http://www.dfe.admin.ch/dynamic/Presse_Rohstoff/CH_RSA/F/af_sud_1f.htm)

## 7.2 The social responsibility of the enterprise according to the NGOs

Created in 1965, the Geneva Anti-apartheid Movement became the Swiss Anti-apartheid Movement (MAAS) in 1971. This organisation engaged in information and awareness-raising activities regarding political and economic relations between Switzerland and South Africa.

In 1982, MAAS, the Bern Declaration<sup>136</sup> and other NGOs, some church-related, launched a campaign for a general boycott of South Africa. The campaign was addressed first of all to the Swiss Parliament and Government, but it also targeted economic players: industry and banks were called upon to cease their activities in or with South Africa. They were asked to disinvest.<sup>137</sup>

In 1988, the campaign *Pas un sou pour l'apartheid* (Not a cent for apartheid) was launched, with banks as its prime target. This campaign was aimed at transactions with the central Government of South Africa (e.g. bond issues, gold sales), transactions with the administration and with state-run companies, as well as the loans granted to fund trade transactions between Switzerland and South Africa.

Simultaneously with these campaigns, representatives of Swiss churches, missionary groups and church-related charity organisations, including Catholic Lenten Fund<sup>138</sup> and Bread for All<sup>139</sup> started a dialogue with representatives of Swiss banks and industry. In those talks, church officials and militants called upon businesspeople to rethink their relations with South Africa and pay greater attention to the human rights violations being perpetrated by the apartheid regime. They echoed the call by the South African churches for "targeted and effective" sanctions.<sup>140</sup>

In the 1980s, the Association of Shareholders Critical of UBS spoke out on several occasions at the general meeting on the bank's relations with South Africa. For its part, the Nestle Shareholders Convention (CANES) also raised questions on this subject to the Vevey-based transnational. In 1985, CANES asked Nestlé to refrain from any further investment in South Africa. The shareholders group drew the Nestlé management's attention to surveys showing that the vast majority of the South African population favoured sanctions. CANES also referred to disinvestment measures announced by some US companies.<sup>141</sup>

In the 1980s, Action Financial Centre Switzerland (APFS) took a series of actions challenging Swiss banks over their relations with South Africa.<sup>142</sup>

In 1999, APFS and Cotmec (Third World Commission of the Catholic Church, Geneva) took up in Switzerland the Campaign for debt relief and compensation in the light of the crimes of apartheid in southern Africa, a campaign that had been launched by a broad coalition of South African NGOs. This campaign challenged both governments and private-sector economic players. It called on them to cancel the debt incurred by South Africa under apartheid ("odious debt") and to indemnify victims of human rights violations committed at the time. It had the support of many Swiss NGOs, including Bread for All, Protestant Aid, the Bern Declaration and Terre des Hommes - Switzerland.

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<sup>136</sup> <http://www.evb.ch>

<sup>137</sup> Working Group Afrique australe - Terre nouvelle - of the Œuvres protestantes d'entraide et de mission and the Southern Africa Round Table of the Conseil missionnaire catholique suisse, *Suisse - Afrique du Sud, Faire mémoire pour assurer le présent, Matran, 14/15 January 2000, May 2000, p. 97.*

<sup>138</sup> <http://www.fastenopfer.ch>

<sup>139</sup> <http://www.ppp.ch>

<sup>140</sup> *Suisse - Afrique du Sud, Faire mémoire pour assurer le présent, Matran, 14/15 January 2000, op. cit, p.81.*

<sup>141</sup> CANES Information Bulletin No 11, February 1986.

<sup>142</sup> <http://www.aktionfinanzplatz.ch>



### 7.3 The social responsibility of the enterprise according to UBS and Credit Suisse Group, Nestlé and Novartis

This section describes the position of the four Swiss enterprises concerning NGO claims regarding relations with South Africa during apartheid, and today. These claims may be summarised as follows: disinvest, indemnify. The broader question of economic relations with countries guilty of gross human rights violations and the position of the Swiss companies in that regard is also tackled.<sup>143</sup>

**UBS.** "UBS business relations with South Africa were in line with Swiss government policy. Loans raised by that country in Switzerland helped significantly to modernise the economy and improve infrastructure in South Africa. UBS followed the Swiss government line that economic sanctions were ultimately prejudicial to the South African economy as a whole and to the poorest members of the population. The banks that formed the present UBS were opposed to the apartheid system and favoured its abolition, and stated this repeatedly. They had always expressed their deep conviction that fundamental political and societal reforms were necessary before South Africa could develop and progress towards prosperity.

South Africa has always been a model of virtue in its debt servicing, except for some repayments postponed in 1985. The position of the present South African government is consistent with the concerns of previous governments: securing the country's access to capital markets by means of exemplary debt servicing."<sup>144</sup>

**Credit Suisse Group.** "We have followed the rules laid down by the Federal Council setting limits on trade with South Africa. As far as the 1980s are concerned, criticisms of relations with that country are unwarranted. The past situation is being judged with present criteria. Today, some voices are saying that it was immoral to have maintained relations with that country, but we did not know at the time how the situation in South Africa would develop. Moreover, we had no reason to be stricter than the Swiss Government. As regards calls for debt cancellation, it seems difficult to determine what part of that debt is "odious". Besides, we question the figures being adduced by the NGOs of amounts owed by the South African Government to Switzerland. What is more, neither does the present South African Government agree with the NGOs on the amount of the debt. Furthermore, this is not a matter that concerns Swiss banks, as borne out by the most recent statistics".<sup>145</sup>

"The way the Swiss Government views things is decisive. Because of its policy of strict neutrality, Switzerland recognises countries but not governments. It is not for us, as business, to decide arbitrarily not to work with this or that country, while Switzerland continues to maintain diplomatic or economic relations with the country in question. In the circumstances, we cannot select the countries with whom we work based on human rights criteria, as some NGOs are demanding".<sup>146</sup>

"Our Credit Suisse First Boston (CSFB) division, concerned with investment banking, is of course bound by Swiss laws, but it must also conform with the laws in force in the country where it operates. In this instance, as the United States had imposed economic sanctions on some countries, Credit Suisse First Boston was obliged to observe them. This means that it can operate in China, for example, but not in Cuba, Libya or Iraq".<sup>147</sup>

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<sup>143</sup> The other aspects of corporate social responsibility as defined by UBS and Credit Suisse Group are addressed in Chapter 6, and in Chapters 3 and 4 with respect to Nestlé and Novartis.

<sup>144</sup> Written communication from Bernhard Stettler and Katrin Gröflin-Alig, Group Public Relations, Public Affairs, UBS AG, 10 July 2000.

<sup>145</sup> Interview with Paul Rhyn, Vice-President Public Affairs, Credit Suisse Group, Zurich, 15 June 2000.

<sup>146</sup> Interview with André-Lou Sugar, Member of the Management, Press Relations, Credit Suisse Group, Zurich, 15 June 2000.

<sup>147</sup> Interview with Paul Rhyn, Vice-President Public Affairs, Credit Suisse Group, Zurich, 15 June 2000.

**Nestlé.** The company's position was described at the time by a member of the Nestlé management in a letter addressed to the president of CANES in 1985 and reproduced in one of the CANES Bulletins: "We do not believe (...) that extreme measures such as boycotts or disinvestment by transnational companies can help to find a satisfactory solution to a political problem. (...) We are convinced that massive disinvestment by transnational companies would harm the non-white population first and foremost. (...) A black leader, Chief Buthelezi - whom your friends know well - told me: 'You do not have the right to leave, for you, the transnational companies, are one of the only forces that can make the situation change for the better. Leaving would be immoral'."<sup>148</sup> The reproduction of a press article was attached to that letter. It was about an interview with Harry F. Oppenheimer, former president of the De Beers company (mines, diamonds), published by Fortune magazine in September 1985. In short, he believed that disinvestment was causing increased joblessness and forcing the government to insulate the South African economy from the rest of the world, thereby lessening the scope for foreign influence.

The point of view of the present Nestlé management: "Had we left, we would have prejudiced all the economic players involved. Once you have invested in a factory, you cannot just simply close it down. If you are responsible, you will think: the suppliers are depending on us, the employees are depending on us, the consumers are depending on us. Nestlé is present in a number of countries because that is in its interests. It always endeavours to operate in keeping with its social responsibility. If we were to withdraw from the countries taken to task in Amnesty International reports, we might as well close down, for questions have been raised even about Switzerland".<sup>149</sup>

"There are many contradictions amongst the critical activists. Some are calling on us to withdraw from countries criticised for their human rights record, others tell us that we should stay and try to influence the government. The result is that we are threatened with boycott because we are present in Burma - where we have no factories, but where our products are sold and, from other quarters, Swiss NGOs are asking us to pressure the Mexican authorities to stop the repression in Chiapas. That is reminiscent of the 1970s debate on the power of transnational corporations. We are criticised for our political clout, and at the same time we are being asked to use it. That is difficult to handle. We must remain cautious".<sup>150</sup>

**Novartis** (then Ciba Geigy and Sandoz). At a 1988 meeting with Swiss church representatives, a Ciba-Geigy manager advocated "growth that will sweep away apartheid".<sup>151</sup> The present position of Novartis: "Novartis operates in all countries where there is a demand for its products. The day when a political leader or a country is declared "*persona non grata*" by the international community, Novartis itself will also review its position and activities in the country concerned".<sup>152</sup>

## 7.4 Assessment

This section synthesises the discussions between NGOs and enterprises on relations with South Africa during apartheid and tackles the general subject of economic relations with countries criticised for their human rights record.

### 7.4.1 Relations with South Africa under apartheid

On the matter of economic relations with South Africa during apartheid, the positions of NGOs and of Swiss enterprises remain far apart. The calls for boycott and disinvestment made by NGOs

<sup>148</sup> Letter from Jacques Patenot (Nestlé) to Antoine Duchemin (CANES), 23 October 1985, CANES Information Bulletin No 11, February 1986.

<sup>149</sup> Interview with Bernard Daniel, General Secretary, Nestlé SA, Vevey, 30 May 2000.

<sup>150</sup> Interview with François-Xavier Perroud, Deputy Manager, Communications Department, Nestlé SA, Vevey, 30 May 2000.

<sup>151</sup> *Suisse - Afrique du Sud, Faire mémoire pour assurer le présent, Matran, 14/15 January 2000*, op. cit, p.81.

<sup>152</sup> Interview with Félix Nicolier, Novartis Foundation for Sustainable Development, Basle, 19 May 2000.

were not heeded by the enterprises. The four enterprises interviewed for this study explained that they followed the Federal Council's policy of neutrality and rejection of sanctions. Besides, these enterprises did not wish to address the matter of current calls for debt cancellation and compensation made by South African NGOs and echoed by Swiss NGOs.

Whilst NGOs invoked violations of civil and political rights to justify the boycott and sanctions, the enterprises based themselves on economic, social and cultural rights and on compliance with the official Swiss position to justify the maintenance of relations. In the view of the enterprises, the severance of economic ties with South Africa would have compounded the human rights situation in the country.

Catholic Lenten Fund and Bread for All have bitter memories of talks with representatives of enterprises during the apartheid era. According to these NGOs, the enterprises remained inflexible to the end. Here is what the former head of the Catholic Lenten Fund had to say: "We had really hoped to be able to sway the bankers. We failed. But I believe that through this dialogue, through the visitors<sup>153</sup> whom we have brought here, the conception of the banks has perhaps shifted somewhat in certain respects".<sup>154</sup>

What has been the impact of economic sanctions on the fate of the apartheid regime? Did sanctions help usher in democracy? Did the Swiss approach of maintaining economic relations prolong the life of the regime? Within the NGOs, the dominant view is that economic sanctions did help bring down the apartheid regime and open the way for democracy. Organisations such as Bread for All<sup>155</sup> and the Bern Declaration<sup>156</sup> also believe that the business transactions conducted by the Swiss economy with South Africa had the effect of maintaining the regime in place and delaying the introduction of democracy.

#### 7.4.2 Relations with other countries

Broadly speaking, there are two opposing conceptions of the impact of economic relations on the position of a government criticised for its human rights record. On the one hand, it is believed that such relations effectively maintain or strengthen the hand of the government in place, on the other, that they can help open up a country, contribute to social and economic change and pave the way for democracy. Opinions vary depending on the case, the size of the country, the government's ideological persuasion, the perception of the degree of oppression practised by the government, the structure of the economy and the status of the party giving the opinion (State, enterprise, NGO, etc.).

Many observers today question the effectiveness of sanctions against countries such as Cuba, Iraq or Yugoslavia under Milosevic. They find that sanctions hurt the populations above all and do nothing to change the government's position. Besides, a former manager of the firm Schindler and Swiss ambassador observed that private foreign investment in China has had a significant impact in terms of improving working conditions in that country, and that "as an investor, the economy can exert some influence in that it requires the strengthening of the rule of law".<sup>157</sup>

The message that Amnesty International is trying to send to enterprises is that they should use the framework of business transactions with the countries to demand the strengthening of the rule of law and improved observance of human rights. Within the Economy and Human Rights Group of

<sup>153</sup> Chur ches and char it i es i nvi ted black South Af ri can cler gy men t o att end som e m eet ings wi th busi ness r epresentat ives.

<sup>154</sup> Ferdinand Luthiger, Catholic Lenten Fund, in *Suisse - Afrique du Sud, Faire mémoire pour assurer le présent, Matran, 14/15 January 2000*, op. cit, pp. 59-60.

<sup>155</sup> Telephone interview with Michel Egger, Bread for All, 16 August 2000.

<sup>156</sup> Peter Bosshard, Bern Declaration, *Avoir l'œil sur les entreprises*, discussion published by *La Suisse et le monde*, review of the Federal Department of Foreign Affairs, 4/1999.

<sup>157</sup> Uli Sigg, *Avoir l'œil sur les entreprises*, discussion published by *La Suisse et le monde*, review of the Federal Department of Foreign Affairs, 4/1999.

Amnesty International - Switzerland, it has been found that some Anglo-Saxon enterprises and businessmen have used their bargaining position to intervene on political matters, for instance, concerning the situation of political prisoners in China. It has also been observed that Swiss enterprises are "more cautious" when it comes to this type of initiative. In the eyes of Amnesty International, they have the advantage of being private and unofficial and hence less likely to run into diplomatic obstacles, issues of official interference and of national honour.<sup>158</sup>

Finally, it is observed that there are three possible approaches to economic relations with regimes incurring criticism for their human rights record: (1) severance of relations (boycott, sanctions); (2) normal economic relations and non-interference in domestic political affairs; (3) economic relations combined with a certain form of interference in so far as those relations serve to exert pressure for democracy and respect of human rights.

These various options also appear in the following chapter dealing with relations between enterprises and governments criticised for their human rights record, and focusing on the tourism industry.

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<sup>158</sup> Interview with Danièle Gosteli, Economy and Human Rights Group, Amnesty International - Switzerland, Bern, 20 January 2000.

## 8. Travel agencies

Many observers, international bodies and NGOs consider Myanmar (Burma) to be an authoritarian military regime, a dictatorship where widespread and repeated human rights violations take place. In parallel to the actions being undertaken within international political forums to denounce this situation and spur the international community to take steps against the government, some NGOs are challenging western enterprises involved in production or marketing in the country. They are demanding that these enterprises take a stand on the country's policies, in particular regarding human rights. Oil companies operating in Burma are therefore the targets of such initiatives. This study will be confined only to the discussion relating to players in the tourism industry.

### 8.1 Tourism in Burma

Several travel agencies offer their clients trips to Burma. The distributors Coop and Migros own travel agencies and each publishes a magazine very widely circulated in Switzerland, *Coopération*<sup>159</sup> and *Construire*.<sup>160</sup> In 1998, *Coopération* and *Construire* advertised trips to Burma which elicited reactions regarding the human rights situation in the country. That episode sparked off a discussion on the question of tourism to countries with regimes deemed to be oppressive.

### 8.2 The social responsibility of the enterprise according to the NGOs

The Working Group on Tourism and Development<sup>161</sup> (*Arbeitskreis Tourismus und Entwicklung, Akte*) is supported by several Swiss development NGOs (Bread for All, Catholic Lenten Fund, Protestant Aid, Swissaid and Terre des Hommes Switzerland and by the Confederation (Swiss Agency for Development and Co-operation). Akte concerns itself with the development implications of international tourism and endeavours to sensitise tourists and professionals as to the impact of this industry on the economy, culture and environment of the receiving countries.

After learning of the appearance of the adverts for trips to Burma in *Coopération* and in *Construire*, Akte members sent a letter of protest to Coop and to Migros. Shortly thereafter, the adverts were withdrawn and the trips cancelled.

Akte's move was part of a package of international initiatives calling for a boycott of enterprises working in or with Burma. Accordingly, the British organisation Tourism Concern called for a boycott of the Lonely Planet travel guides because of the publication of a guide on Burma; some groups called for a boycott of Nestlé because its products were being sold in the country; the oil companies Total et Unocal came in for criticism because of activities carried out under the protection of the Burmese regime.

In contrast, some organisations believe that boycotts and sanctions have harmful effects and are not very practicable, especially in the tourism industry, as that would entail banning a large number of destinations worldwide. They do believe, however, that it is possible to promote respect of human rights within these countries by promoting enlightened tourism, ethical tourism, which would mean interacting with the population and raising travellers' awareness of local political issues. To that end, the Economy and Human Rights Group of Amnesty International - Switzerland<sup>162</sup> contacted travel agencies to urge them to inform their clients about the political situation in the country they intended to visit, with specific reference to respect for the human rights of its citizens and of migrant workers. Amnesty International was prepared to help the tourism professionals willing to

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<sup>159</sup> <http://www.cooperation-online.ch>

<sup>160</sup> <http://www.construire.ch>

<sup>161</sup> <http://www.akte.ch>

<sup>162</sup> <http://www.amnesty.ch>

commit themselves along these lines by providing them with useful information that could be included in their brochures, placed on their Web sites and in other communications media. The Amnesty International initiative was not aimed exclusively at Burma, but at a number of countries open to criticism from the standpoint of human rights.<sup>163</sup>

### 8.3 The social responsibility of the enterprise according to Coop and Migros

This section outlines the policy of Coop and Migros regarding offers of trips to countries where gross human rights violations occur, the position of these enterprises on the Akte initiative and the reasons for the withdrawal of the offers of trips to Burma.

Coop's response: "As regards trips for our readers, we do not wish to limit the choice for political reasons. Therefore, we are also offering a trip to Cuba, which has been well received. Akte has not protested about that. The trip to Burma was cancelled because not enough people signed up for it".<sup>164</sup>

In the German-language version of its magazine (*Brückenbauer*), Migros informed its readers about the human rights situation in Burma when it advertised its offer of a trip to that country. Here is the reply from the editorial office to the members of Akte: "Burma has recently decided to open up to tourism. In response to this, two positions have emerged: some, including yourselves, advocate a boycott as the best way of moving that country towards democracy. Others - us included - believe that contact maintained with the population, for example through trips such as ours, *also* helps to change things for the better. Exclusion or relations? We believe that our readers will make their choice based on their own analysis and their own tactical conviction. Those advocating a boycott will not make such a trip, those in favour of contacts will take advantage of the opportunity offered by our magazine".<sup>165</sup>

So why then did Migros withdraw its offer? "We could no doubt have filled up several identical trips for readers. But in our highly media-driven society, one must be alive to the balance of forces. Organisations with a powerful image and a simple message often win the day. From that standpoint, we wanted to truncate the campaign directed against us and avoid being taken for collaborators of the regime. I personally regret that we had to withdraw that offer. The deputy editor of *Brückenbauer* had gone to have a look around the country. Young people, local students had told him: "You must come!" The only thing is that the organisations advocating boycott have a strong enough sense of marketing and of agitprop to make any level-headed dialogue impossible. It also strikes me that some campaigning organisations have never written to us about trips to Cuba, Iran, Syria or Jordan offered to our readers. Their struggle therefore seems ideologically highly selective".<sup>166</sup>

### 8.4 Assessment

The question is whether tourism and the resulting capital injections help to strengthen or weaken an oppressive regime. A discussion started in June 2000 on the web site of a British daily<sup>167</sup> shows that both positions have their advocates.

On the one hand, it is held that capital injections brought by tourism do boost the power of the authorities and the resources of the armed forces, that the effect of tourism is to dampen prospects

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<sup>163</sup> Telephone interview with Danièle Gosteli, Economy and Human Rights Group, Amnesty International - Switzerland, 5 July 2000.

<sup>164</sup> Written communication from Dr Felix Wehrle and Brigitte Zogg, Coop Suisse - Economy/Environment /Public Relations, 18 May 2000.

<sup>165</sup> Michel Danthe, Director Migros Press Publications, reply to the members of Akte, 23 July 1998.

<sup>166</sup> Telephone interview with Michel Danthe, Director Migros Press Publications, 14 June 2000.

<sup>167</sup> Financial Times, <http://www.ft.com>, 14 June 2000.

of a change of regime, to maintain human rights violations and the exploitation of employees of hotels, golf courses and other tourist facilities, and the demand is made to heed Burmese opposition figures close to Aung San Suu Kyi, who are calling for a boycott.

On the other hand, tourism is deemed to encourage contacts between foreigners and locals, which undermines police or military surveillance and encourages aspirations towards freedom, weakens the dictatorship and paves the way for opening up the country; it creates jobs and contributes resources to population, incites the government to consider changes for reasons of image and attractiveness, whilst a boycott would tend to isolate and buttress the dictatorship.

Both arguments are based on human rights - civil and political as well as economic, social and cultural rights. The approach of Migros and Amnesty International - Switzerland fall into the second category, which views an enlightened presence as preferable to a boycott.

## 9. General features

The preceding chapters describe a series of NGO demands addressed to enterprises, the position of the enterprises concerned by those demands, as well as other material illustrating the way these enterprises define and exercise their social responsibility. In many cases the enterprises responded negatively to NGO demands. In contrast, at one or another level, more or less concretely, all the enterprises assume social responsibility and launch social initiatives that may be judged as negligible or substantial.

This chapter reviews several themes common to many cases and of general relevance to understanding the definition and exercise of corporate social responsibility.

### 9.1 Consumer behaviour

This section deals with the impact of corporate social information on consumers. Just how sensitive are consumers to the social behaviour of enterprises? What is the profile of those who buy products with a social component? The opinions of some enterprises:

**Coop:** "The surveys we regularly conduct on consumer behaviour show us that the clientele for fair-trade products is largely female, that is, persons aged between 30 and 49 in charge of households, and that the buyers of organic products are particularly keen on these products".<sup>168</sup>

**Migros:** "There is a growing demand for products of social value. Apart from their direct return, they also serve to inspire and maintain public confidence. They are important to the company's philosophy and to its long-term image in society. We have no data on the profile of buyers of products of social value. Intuitively, I would say that they are for the most part women, who are more keenly aware of their responsibilities".<sup>169</sup>

**Switcher.** "There is no link between our social initiatives and our commercial success. The market for products of social value is a niche market in Switzerland, whilst our clientele is the public at large. These products are generally presented as exceptional. We are struggling to make them the norm. The niche can grow, it is necessary to awaken mass interest in social issues".<sup>170</sup>

**Veillon:** "A minority of consumers feel concerned by social issues, which amounts to a market niche. Our clientele is not specifically situated within this niche, but in the public at large, especially amongst women. Active consumers who read magazines and watch consumer affairs programmes on television do discuss what they learn with those around them. Such word of mouth can work rapidly and give very wide publicity to information, whether positive or negative, about a company's activities. Our switchboard has received many reactions of congratulation and encouragement after the publication of articles on our social initiatives".<sup>171</sup>

According to these statements, consumers alive to the social dimension of the products they buy are a minority, largely female. But that proportion seems to be growing. It will perhaps develop in a manner similar to environmental awareness amongst consumers between the 1970s, when only a

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<sup>168</sup> Written communication from Dr Felix Wehrle and Brigitte Zogg, Coop Suisse - Economy/Environment /Public Relations, 18 May 2000.

<sup>169</sup> Interview with Fausta Borsani, Ethics/Environment Officer of the Federation of Migros Co-operatives, Zurich, 19 May 2000.

<sup>170</sup> Interview with Daniel Rüfenacht, Environment and Social Relations Officer, Switcher/Mabrouc SA, Le Mont sur Lausanne, 28 April 2000.

<sup>171</sup> Interview with Jacques Zwahlen, CEO, Veillon SA, Bussigny, 29 May 2000.



handful of activists were involved, and today, when the environment occupies a central place in the concerns of citizens and consumers and in political agendas and corporate strategies.

## 9.2 Employee sentiment

Company employees are not insensitive to the social image conveyed by their employer. Criticisms or congratulations received by the enterprise are also received by its employees. Here are statements by some company representatives:

**ABB:** "The employee would like the activities of the transnational for which he works to match his own values. A father who, in the evenings must listen to his children faulting the behaviour of the company for which he works, feels caught in a conflict of values. Employees want the enterprise to turn in a good environmental and social performance. We would all like to have a positive influence on the world, we would all like to leave it in a better state than that in which we found it".<sup>172</sup>

**Switcher:** "Both office and maintenance workers are proud of working for a company with a social conscience. They take an interest in the matter, they spot press articles on the subject. There is identification".<sup>173</sup>

**Migros:** "Many product managers - those responsible for choosing and buying products - are highly motivated by social and fairtrade initiatives. But not all. The success of these initiatives depends largely on their commitment and their motivation".<sup>174</sup>

**Veillon:** "In most businesses, in both Europe and Asia, people are motivated, even comforted when their work takes account of the social dimension. The importance of this factor is often underestimated. In general, staff are proud of a company's social initiatives".<sup>175</sup>

These statements generally show that company employees are on the whole sensitive to social issues and to their employer's role in that regard. This indicates that the employee and the citizen are not separated into watertight compartments, and confirms the impression that one may gather from listening to political statements and reading the press, that concepts such as human rights, ethics and sustainable development are gaining ground in public opinion. These statements are also relevant when it comes to future employees. A recent survey shows that for 18 per cent of Swiss students, a strong sense of ethics is a criterion in choosing an employer.<sup>176</sup>

## 9.3 The role of investors and of shareholders

### 9.3.1 Introduction

Ethical investment or socially responsible investment originated in the United States and is gaining ground in Europe. The practice consists of incorporating social and environmental criteria into investment decisions. Many banks and financial institutions are now offering ethical and environmental investment funds to their customers.<sup>177</sup> These funds are invested in companies that have been rated according to social criteria and which account for a larger or smaller part of the

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<sup>172</sup> Interview with Michael Robertson, Vice-President Environmental Affairs, ABB Corporate Management Services AG, Zurich, 26 May 2000.

<sup>173</sup> Interview with Daniel Rufenacht, Environment and Social Relations Officer, Switcher/Mabrouc SA, Le Mont sur Lausanne, 28 April 2000.

<sup>174</sup> Interview with Fausta Borsani, Ethics/Environment Officer of the Federation of Migros Co-operatives, Zurich, 19 May 2000.

<sup>175</sup> Interview with Jacques Zwahlen, CEO, Veillon SA, Bussigny, 29 May 2000.

<sup>176</sup> Universum, The Swiss Graduate Survey 2000.

<sup>177</sup> See for example the Guide to Responsible Investment in Switzerland, the Bern Declaration and the WWF Switzerland, 2000.

fund, depending on their rating. Some ethical funds operate in an exclusive manner: companies in certain sectors deemed to be less in the social interest are excluded (e.g. tobacco, alcohol, gambling, pornography, arms, nuclear energy). Other funds include bonds issued by governments whose social record has been assessed, in particular as pertains to the observance of human rights. Ethical investment products are destined mainly to individual investors or to institutional investors such as pension funds, which carry appreciable financial weight.

The theme of ethical investment is linked to that of responsible shareholding, a concept that also originated in the United States. Responsible shareholding consists of trying to influence the behaviour of the company of which one is part-owner, by intervening at general meetings (questions to the management, motions put to the shareholder vote). This may be done by individual shareholders, militant organisations or institutional players such as churches, legal persons or pension funds.

The complex and rapidly developing topics of ethical investment and responsible shareholding are not analysed in depth in this study. This section contains some material on the links between NGO campaigns targeting companies on the one hand, and responsible shareholding and the rating of company behaviour in ethical investment funds on the other.

### 9.3.2 NGOs and responsible shareholding

Certain NGOs turn to responsible shareholding to exert pressure on companies, as a complement to their work of information and public awareness building through campaigns. For that purpose, it suffices for them to own one share in the company targeted. Such was the case of CANES with Nestlé, the Association of Critical UBS Shareholders with the former UBS, occasionally, of Action Financial Centre Switzerland with certain banks and of the Bern Declaration with ABB. In terms of influencing the majority shareholder vote, these interventions have not been successful. However, for the NGOs, they have constituted yet another occasion to air their grievances and to see them taken up by the media, and - who knows - to spark discussion of social issues within the company management. On occasion, an NGO intervention is supported by a financially weighty shareholder. So it was in 1998, when the Civil Servants Pension Fund of the Government of Geneva (CIA) approved the Bern Declaration's intervention at the general meeting of ABB shareholders concerning the Three Gorges dam.

In Switzerland, a new association, ACTARES - Shareholding for a Sustainable Economy (*Actionnariat pour une économie durable*), which in part grew out of the CANES experience, intends to intervene in shareholders general meetings of various companies on social and environmental issues; this Association envisages co-operating with pension funds and NGOs. In the United States, responsible shareholding is a widespread practice, thanks mainly to church-related groups.

### 9.3.3 NGOs and ethical investment

The ratings done by ethical investment funds sometimes coincide with the positions of NGOs. Accordingly, the Ethos Guide to Companies (*Guide des entreprises d'Ethos*), a Swiss investment foundation for sustainable development,<sup>178</sup> mentions the controversy over the Three Gorges dam in its comments on ABB and gives the enterprise a low rating for its relations with public authorities. As regards Nestlé, Ethos observes that the company has drawn up principles for governing its relations with its suppliers, which is in line with the positive rating given by CANES, and that "there is still room for improvement in its communication and dialogue with civil society"<sup>179</sup>; this latter point can be construed as a reflection of the controversy over infant formula.

A brief comparison of NGO positions and the behaviour of ethical funds with regard to the role of enterprises in human rights brings out certain points:

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<sup>178</sup> <http://www.ethosfund.ch>

<sup>179</sup> Ethos Guide to Companies, Swiss Equity Portfolio, August 1999.

- It would seem that the rating methods used by ethical funds are more sophisticated when it comes to environmental issues than for social questions, and that in this latter domain, the topic of human rights does not predominate.
- The ratings given by ethical funds do not necessarily coincide with NGO stances, although the latter are just as active in the ethical field. As regards form, the analytical methods used by NGOs differ from those of ethical funds. In terms of substance, the ethics of investment funds and that of NGOs do not necessarily coincide, they may diverge, or they may not focus on the same issues.
- To assess the role of the enterprise in the social domain, and in particular in the sphere of human rights, account must be taken of the relations between the enterprise and its own employees, but also with its professional partners, with consumers, with communities and with governments. The greater the number of stakeholders considered and the further away they are physically from the enterprise, the more difficult the task of overall evaluation.
- It is technically easier to look negatively at a company's behaviour - has it done something wrong? Is it part of an excluded sector? Is it involved in human rights violations? - than positively - has the enterprise launched a social initiative? What weight should be given to this initiative? How should the company be assessed in terms of human rights promotion?

Ethical investment is still in its infancy. Even though marginal, its import in the world of finance is growing. Its future expansion will depend mainly on the development of social accounting methods. As specialists in human rights and development, NGOs can play a meaningful role in developing these methods. Centre Info, an office that evaluates the social performance of companies for investors and financial institutions was thus created in 1990 by Pier-Luigi Giovannini, then Secretary-General of the Bern Declaration.<sup>180</sup> It will be particularly interesting in the future to follow the policy of ethical investment funds in terms of human rights promotion and fostering development.

Finally, there is recognisable link between the stances taken by NGOs and ratings given by ethical funds, but that link is episodic and infrequent.

#### **9.4 Motives of enterprises, public relations**

Why do companies launch social initiatives? What do they say on the matter? Company motives and their public relations about those motives are frequently recurring topics in discussions about initiatives taken in the name of corporate social responsibility. Such was the case, for example, at the forum organised to coincide with the recent Session of the United Nations General Assembly on Social Development held in June 2000 in Geneva. That forum brought together government officials, international civil servants and representatives of civil society and the economy, and devoted many sessions to social initiatives by companies and to government-private sector partnerships. The responses of some companies interviewed for this study:

**ABB:** "Even though he may not be our client, we are concerned about the man in the street. Today's global companies have a higher profile, including companies such as ours, which conduct business-to-business operations. We wish to be a good corporate citizen and to have a good image. Gauging a company's social performance is a new issue. We are taking a keen interest in the initiatives being taken in this sphere and are beginning to draw up our social report".<sup>181</sup>

<sup>180</sup> <http://www.centreinfo.ch>

<sup>181</sup> Interview with Michael Robertson, Vice-President Environmental Affairs, ABB Corporate Management Services AG, Zurich, 26 May 2000.

**Coop:** "The development of fair trade is a goal shared by the Max Havelaar Foundation and ourselves. We stand out with respect to fair trade products and other products with an environmental and social dimension, for which we foresee strong sales growth".<sup>182</sup>

**Migros:** "Are our social initiatives good for our image? We do not ask ourselves that question, we act from the heart. Migros is discreet about its environmental and ethical initiatives. This modesty, *Bescheidenheit*, is a Swiss hallmark. One does things which one considers normal, and so one talks little about them. Moreover, marketing with regard to social initiatives is more complex than classical marketing, especially if the approach is pragmatic, differentiated and progressive, as in the case of measures to improve working conditions in the export textile industry. This pragmatism is also characteristic of the Swiss mentality: one does not make promises without being sure of being able to keep them. In the future, we shall be doing more communication on social issues".<sup>183</sup>

**Nestlé:** "We do not wish to do social or ethical marketing and we are not trying to buy ourselves a clear conscience. We have our warranty seal, a symbol of quality, safety and responsibility. Our contributions to charitable organisations are generally made discreetly. Our management is decentralised; in principle, that is a matter for national subsidiaries to decide".<sup>184</sup>

**Novartis:** The Novartis Foundation for Sustainable Development was created out of philanthropy, because of an unwritten social contract, a moral obligation towards society. The Foundation is not a marketing tool. "Engagement in humanitarian work is good for a company's reputation. Though it is not the reason for our commitment, it does give us an added motivation". The Foundation reports regularly on its activities, both within and outside the company.<sup>185</sup>

**Switcher:** "It was not marketing that prompted us to start our social activities, but an impulse, intuition, the heart. To my mind, it is shameful to do advertising on the backs of the poor. The social public relations budget is spent more on social projects amongst suppliers than on advertising".<sup>186</sup>

**Veillon:** "At the root of our social involvement lies a commercial rationale, a business reaction to the risks to the company's reputation. Our company has always been alive to social issues. We soon realised that our social endeavours were being well understood and that they were beneficial in terms of image, even if that is difficult to gauge. Today, we incorporate this dimension into company public relations, with moderation, in an effort to remain credible at all times".<sup>187</sup>

There are differences in company attitudes to social public relations. Some companies are reluctant to publicise the social aspects of their activities and their initiatives in that sphere, preferring to remain discreet or to leave it to third parties (NGOs, media) to inform the public. To understand the reluctance of enterprises, we may consider the traditional concept of disinterested charity, the fear of exposing oneself, of causing misunderstandings, of ultimately inviting criticism or of confusing certain business partners, and the lack of social communication experience.

Other enterprises are willing to talk about their social initiatives. When asked why they take such initiatives, they give two types of reasons: one dictated by sentiment and the other by commercial

<sup>182</sup> Written communication from Dr Felix Wehrle and Brigitte Zogg, Coop Suisse - Economy/Environment /Public Relations, 18 May 2000.

<sup>183</sup> Interview with Fausta Borsani, Ethics/Environment Officer of the Federation of Migros Co-operatives, Zurich, 19 May 2000.

<sup>184</sup> Interview with Bernard Daniel, General Secretary, and François-Xavier Perroud, Deputy Manager, Communications Department, Nestlé SA, Vevey, 30 May 2000.

<sup>185</sup> Klaus M Leisinger, *The Foundation as others see it, Novartis's commitment to sustainable development*, Novartis Foundation for Sustainable Development <http://foundation.novartis.com>, 1999, 2000.

<sup>186</sup> Interview with Daniel Rüfenacht, Environment and Social Relations Officer, Switcher/Mabrouc SA, 28 April 2000.

<sup>187</sup> Interview with Jacques Zwahlen, CEO, Veillon SA, Bussigny, 29 May 2000.

considerations. Both explanations are sometimes given: the enterprise first presents its social initiative as a disinterested gesture coming from the heart, then admits that such an initiative is good for its image, which is why it is used for public relations. Some observers amongst the media, NGOs and consumers react sceptically to these reasons. The reaction is sometimes one of outright incredulity, and the practical utility of the social initiatives takes second place behind what seems to be trickery. That does not encourage enterprises to take new initiatives.

To avoid misunderstandings, a distinction may be drawn between the individual and the organisational levels. At the level of the enterprise as such, it is clear that a social initiative can and must reflect a commercial interest if it is to be viable and substantial and go beyond a simple year-end gift to the neighbourhood association. It is therefore better to say it from the beginning, to acknowledge the dimension of marketing, advertising and image. At the level of individuals working in the company - employees, executives, managers - a moral, sentimental motive is apparent, which reinforces the company's commercial motive. The distinction between the enterprise level and the individual level is one way of reconciling the commercial and sentimental reasons used to explain the motives behind a social initiative.

### 9.5 Enterprises, NGOs and social sponsoring

Some NGOs specialising in field projects rather than political activism depend on corporate sponsoring to finance their projects. Those NGOs have experience in co-operating with enterprises on social matters. Here, they give their feelings about this experience. This section brings out the reluctance of companies regarding social public relations discussed above.

Caritas Switzerland has had the benefit of a partnership with three international credit card companies, American Express, Mastercard and Visa, as well as with Swissair, C&A and Benetton. Caritas observes that "not all companies have become aware of the value of social sponsoring".<sup>188</sup>

Swissaid, which has co-operated with Volkswagen, Ricola and La Poste, observes that it is "very difficult to find sponsors". But they remain confident: "There is immense potential for enterprise-NGO sponsoring".<sup>189</sup>

Vivamos Mejor is supported by Merkur, Holderbank, UBS, Migros, Volkart, and other companies, mainly in the form of donations (confidentiality) and not in the form of sponsorship (advertising).<sup>190</sup>

The Swiss Friends of SOS Children's Villages (*Amis suisses des Villages d'enfants SOS*) have several private partners as sponsors, including Veillon, Swissair and Swissôtel, Kuoni, Swatch and Swarovsky. If they so wish, the main sponsors can give their name to SOS Children's Village houses.<sup>191</sup> This NGO has also experienced hesitancy on the part of some enterprises when it comes to social public relations: "It seems to us that the companies with which we have co-operated could have derived more from these partnerships. They have the feeling that boasting about their partnership with us would destroy the moral benefit of having associated themselves with our endeavours. They act as though guilty. That is a mistake. The enterprise should reap its benefit, it should think of the partnership with the NGO as a business contract. We are disquieted if the company gives us money secretly, as we can only hope that it has a lot of guilt to drown".<sup>192</sup>

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<sup>188</sup> Interview with André Simonazzi, Information Officer, Caritas, Lucerne, 3 March 2000. <http://www.caritas.ch>

<sup>189</sup> Interview with Werner Küng, Information and Fundraising Officer, Swissaid, Bern, 1 February 2000. <http://www.swissaid.ch>

<sup>190</sup> Interview with Jürg Meichle, *Vivamos Mejor*, Bern, 21 February 2000. <http://www.vivamosmejor.ch>

<sup>191</sup> Interview with Andreas Häner, SOS Children's Villages, Chambésy, 17 February 2000. <http://www.sos-kd.ch>

<sup>192</sup> Interview with Philippe Lizop, Personal Adviser to Princess Salimah, International Ambassador for SOS Children's Villages, Chambésy, 17 February 2000.

## 9.6 Switzerland's image

To what extent does the behaviour of Swiss companies in the social and human rights spheres affect the international image of Switzerland? Switzerland is an exporting country and has a large number of transnationals in proportion to its population. What is the contribution of the enterprises to moulding the image of Switzerland? Some NGO opinions:

Swisscontact is a development co-operation organisation bankrolled by Swiss enterprises.<sup>193</sup> In 1999 it conducted a study on Switzerland's image abroad, in cooperation with the Institute of Sociology of the University of Zurich. 600 small and medium-sized enterprises from developing countries were interviewed about the image they held of Switzerland and Swiss companies. The findings of that study were on the whole positive. The Swiss were open, progressive, generous, and Swiss enterprises were good employers, environment-friendly and contributed to the economic development of countries.

Transparency-Switzerland, an anti-corruption organisation headed by a former diplomat of the Confederation, sees things in a different light. "When I attend international conferences, people often tell me, when they see my badge, that Switzerland is the country sheltering the money stolen by the leaders of poor countries and where that money is laundered. This image is particularly widespread in Africa".<sup>194</sup>

The feeling of the President of the Nestlé Shareholders Convention (CANES): "Switzerland and Nestlé are blended together into one image of whiteness, of purity. It is perhaps unfair, but it results from the fact that Nestlé and Switzerland place themselves on a pedestal".<sup>195</sup>

The Swiss image is also a matter of concern to the enterprises interviewed for this study, as borne out by the following statements:

**Credit Suisse Group:** "Switzerland's image has certainly suffered from the question of dormant Jewish funds and the Holocaust. The Group and its business units have drawn up rules of conduct that all employees are required to follow. That clearly shows our determination to be a good corporate citizen. In that way we wish to do our part to convey a good image of Switzerland".<sup>196</sup>

**Nestlé:** "We are not given to crowing over our victories, that is not a habit either of Switzerland in general, or of Nestlé. We are highly decentralised. It is in the various countries that the units undertake public relations and defend the guiding principles (Nestlé Business Principles). American-style Mission Statements do not match our corporate culture".<sup>197</sup>

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<sup>193</sup> <http://www.swisscontact.ch>

<sup>194</sup> Interview with Philippe Lévy, President, Transparency Switzerland, Bern, 28 January 2000.

<sup>195</sup> Interview with Antoine Duchemin, President of CANES, Geneva, 26 January 2000.

<sup>196</sup> Interview with André-Lou Sugar, Member of the Management, Press Relations, Credit Suisse Group, Zurich, 15 June 2000.

<sup>197</sup> Interview with Bernard Daniel, General Secretary, Nestlé SA, Vevey, 30 May 2000.

**Switcher:** "We would be satisfied if our originality could become a plus for the Swiss image. The Swiss Consul came to the inauguration of the fourth school we built in India and he laid the first stone for the fifth. He was enthusiastic".<sup>198</sup>

These statements show that Switzerland's image abroad is of concern to both the country's NGOs and its companies. On both sides, it is felt that the image has suffered in recent years. NGOs and enterprises are agreed that it would be desirable for that image to improve in the future. As for the means of attaining that objective, the discussion is ongoing.

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<sup>198</sup> Interview with Daniel Rüfenacht, Environment and Social Relations Officer, Switcher/Mabrouc SA, Le Mont sur Lausanne, 28 April 2000.

## 10. Summary

The purpose of this study is to find the makings of an answer to the question: what can enterprises do in favour of human rights? Chapters 2-8 compare the positions of NGOs and of enterprises on various economic issues with human rights implications. The two conceptions of corporate social responsibility in different situations are compared. This chapter summarises the findings in the various cases. What do we learn from these stories of confrontation, dialogue and partnership between NGOs and business? What lessons should we draw with respect to the possibilities for incorporating human rights into the global economy and regarding the role of Swiss players in that connection? This chapter comprises three sections. The first is devoted to the demands made by NGOs on enterprises. It focuses on the content of those demands in human rights terms and on their implications for the activities of the company. The second part examines the responses given by the companies to those NGO demands. The final section looks at various aspects of business-NGO relations.

### 10.1 NGO demands

#### 10.1.1 Promoting human rights

An examination of the issues prompting NGOs to address demands directly to enterprises reveals that it is largely a matter of human rights promotion, of civil and political rights, as well as economic, social and cultural rights, and labour rights. Not only are NGOs asking companies *to respect* and refrain from infringing human rights, they are also calling on them above all *to promote* respect for and implementation of human rights. NGO campaign issues do not address any specific human rights abuses committed by enterprises but the influence that they do or fail to exert on third parties to promote respect for and the realisation of human rights. In this perspective, their sphere of influence goes far beyond the confines of their offices and factories to encompass many stakeholders: business partners (Chapter 2), consumers and populations (Chapters 3 and 4), and the governments with which they maintain relations (Chapters 5, 6, 7 and 8).

#### 10.1.2 All human rights

The cases included in this study cover a range of human rights. The following paragraph lists the human rights that NGOs are urging enterprises to promote. The sphere of activity and the NGO campaign theme corresponding to the various chapters are recalled in brackets.

Chapter 2 (Distributors of food and textile products, working conditions in the export industry) deals mainly with labour rights; Chapter 3 (food industry, baby formula controversy) with the right to food and the other economic, social and cultural rights; Chapter 4 (pharmaceutical industry, access to essential drugs) addresses the right to health; Chapters 5 (power industry, social impact of large dams) and 6 (banks, dictators' money) economic, social and cultural rights; Chapters 7 (industry and banks, relations with the apartheid regime) and 8 (travel agencies, tourism in Burma) discuss civil and political rights.

This list shows that the NGO demands to internationally active enterprises cover civil and political rights, as well as economic, social and cultural, and labour rights. All the human rights are concerned. This is a far cry from the pattern that prevailed during the Cold War in the political and diplomatic treatment of human rights, where the capitalist West concentrated on civil and political rights, and the communist East and the Third World on economic, social and cultural rights. The current approach has the advantage of presenting human rights as a coherent whole and of not assigning more weight to one or the other component and should therefore pave the way for recognition of their universality.

#### 10.1.3 Implications for the activities of enterprises

The NGO demands examined in this study hold a range of implications for the activities of enterprises. Some would imply slight changes, others radical changes that could even mean ceasing



certain activities. These implications condition the reaction of enterprises to NGO demands. They are summed up hereunder:

In Chapter 2, the NGOs demand that enterprises incorporate social standards into their relations with their partners in developing countries; in Chapter 3, they call on Nestlé to review its marketing methods for baby formula, to sell products that meet essential needs, to invest in poor countries; in Chapter 4, the NGOs challenge Novartis to lower the price of essential drugs and step up research into these drugs; in Chapter 5, the NGOs call on ABB to withdraw from participation in major dam projects, or failing that, to influence governments on social matters; in Chapter 6, they call on banks to refrain from sheltering dictators' money; in Chapter 7, they demanded at the time that banks and industry should cut off relations with South Africa, whilst today they are asking them to cancel debts incurred under apartheid and pay compensation; in Chapter 8, some NGOs call on tourism companies to cease offering trips to Burma, others request enterprises to inform their clients about the human rights situation in that country.

## 10.2 The response of enterprises

How do enterprises respond to these demands? They tend to respond positively if it is a matter of building social standards into their relations with their partners (Chapter 2), of changing their marketing and consumer information methods, of investing in poor countries (Chapter 3), or of enlightening their clients on social and political issues (Chapter 8).

In contrast, enterprises tend to respond negatively when asked to produce or market certain products rather than others (Chapters 3 and 4), to give up certain activities because of the behaviour of a government (Chapters 5, 7 and 8), to influence governments on social matters (Chapter 5), and to cancel debts and pay compensation (Chapter 7).

Some cases do not lend themselves to interpretation in terms of NGO demands and company responses, such as that presented in Chapter 6 (banks and dictators' money). In that case, NGOs and enterprises are separated by differences in the perception of reality rather than by differences of principle.

What are the lessons to be drawn from the analysis of these various cases? When NGO demands mean that enterprises should *diversify* their activities towards less profitable areas, or *give up* certain activities, the company response is negative. This applies in most of the cases studied. In those cases, the NGO-enterprise relationship remains to the level of *confrontation*, lack of understanding, despite some attempts at dialogue. Such stalemates can last for years. In the meantime, enterprises may sometimes carry out environmental and social initiatives in other aspects of their activities.

When NGO demands mean that enterprises should *incorporate* an issue into their activities, they tend to respond positively. That was so in a minority of the cases studied. The NGO-enterprise relationship then becomes one of *partnership*, of cooperation based on the identification of some common ground. This study also underlines the fact that the normal activities of enterprises can, in some situations, meet the concerns of human rights advocates without "need" of a campaign to pressure enterprises into this. That applies mainly to spin-offs from the presence of a foreign company for a country's development. Some aspects of company activities naturally embody human rights promotion concerns (see 11.1 below).

Conclusion: companies are willing to listen to talk of human rights and to step up their activities in that connection if it can be demonstrated to them that the initiative can form part of their natural activities, as private entities exposed to competition and subject to the constraints of profitability. From that standpoint, human rights must be presented as a strategic option for the company, as an investment: it must see the benefit to be derived therefrom, it must feel that it is worth the trouble to conduct a social audit, lay down procedures, train workers, circulate information and make the necessary outlays. It must be able to talk about human rights in its own language. Otherwise, there

is little hope that the company will take the matter seriously and go beyond the stage of turning a deaf ear or making a declaration of intent, or of diversion. It will continue to favour the practice of human rights unwittingly and without doing anything more about it.

### 10.3 NGO-business relations

The cases discussed in this study bring out the different types of relationship between NGOs and enterprises, ranging from confrontation, through dialogue, to partnership. These various types have already been demonstrated in cases of relationships between environment protection organisations and companies, in Switzerland,<sup>199</sup> and internationally.<sup>200</sup>

#### 10.3.1 Confrontations

In most of the cases studied (Chapters 4-8), it is confrontation that dominates NGO-business relations. The NGOs launch a campaign focussed on some specific aspect of a company's behaviour. The campaign themes are determined in the light of the objectives being pursued by the NGOs (human rights, development), and in the light of the occasions given by enterprises. The campaigns make use of a striking picture: a lethal epidemic (campaign on essential drugs), a flooded village (campaign on large dams), a billionaire dictator (campaign on fugitive capital), racial segregation (economic relations with South Africa under apartheid), or forced labour (tourism in Burma).

The companies respond negatively to the demands being made by these campaigns. It turns out that in these cases, NGOs and enterprises have diverging conceptions of the company's social responsibility: on the one hand, the conception of public responsibility that would require the enterprise to give up certain activities, on the other, that of private responsibility where social matters are subordinated to commercial imperatives. Marked by opposing viewpoints on matters of substance when it comes to the role of business in the global economy, these situations yield little or no immediate results in terms of improving the human rights situation. Nevertheless, they undoubtedly help create a climate that prompts enterprises to act on other fronts in social and environmental matters.

#### 10.3.2 Partnerships

In a minority of the cases studied, the NGO-enterprise relationship involves formal partnership in the form of co-operation that reflects common interests. Such was the case with regard to Max Havelaar and STEP (Chapter 2). That was also the line taken by Amnesty International vis-à-vis some travel agencies (Chapter 8) and vis-à-vis enterprises in other sectors of activity. Similarly, Transparency International cooperates with banks so as to enhance the effectiveness of efforts to combat money laundering (Chapter 6). At times, the relationship starts in confrontation, moves towards dialogue and culminates in a partnership, as in the cases of the Migros-Del Monte Social Clause and the Clean Clothes Campaign (some enterprises) (Chapter 2).

In several situations, the general climate of the NGO-company relationship remains closer to confrontation than co-operation, but the relationship exists, dialogue develops and areas of agreement emerge. NGOs sometimes express their satisfaction with a practice or a decision by the enterprise. Cases in point are CANES and Nestlé (Chapter 3, application of the WHO Code, relations with producers, investing in the South), the various NGOs and Novartis (Chapter 4, Novartis Foundation for Sustainable Development) and the Bern Declaration and ABB (Chapter 5, ABB participation in the World Commission on Dams).

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<sup>199</sup> Bastienne Joerchel, *Les organisations de protection de l'environnement et le secteur économique : de la confrontation à la coopération*, in *L'écobusiness: enjeux et perspectives pour la politique de l'environnement*, Martin Benninghoff, Bastienne Joerchel, Peter Knoepfel (dir.), Helbing & Lichtenhahn, Basel and Frankfurt am Main, 1997.

<sup>200</sup> See, for example, John Elkington and Shelly Fennell, *Partners for Sustainability*, Greener Management International 24, Winter 1998 (48-60).

If we look at formalised partnerships alongside agreements that have been merely stated, a comparative analysis of the positions of NGOs and enterprises on roughly a dozen social and economic issues throws up as many agreements as disagreements (11-11). This is evident from the summary table below. This assessment does not reflect the importance attributed to each element by the NGOs and therefore does not allow for a quantitative comparison of agreements and disagreements: we cannot conclude that NGOs approve 50 per cent of the behaviour of enterprises. These results are nevertheless of indicative value insofar as they show that human rights advocates and players in the economy have diverging and converging interests. They confirm the working hypothesis underlying this study, that NGOs and enterprises have more complex, intense and fruitful relations than appearances would suggest.

### 10.3.3. Summary table

Chapters sectors	NGO	Enterprises	Disagreements	Agreements
2 Distribution foodstuffs and textiles	BD, PPP, EPER	Migros	Campaign hunger and working conditions	Migros - Del Monte Social Clause
	PPP, AdC, CAR, HEL, SWI, EPER	Migros, Coop, etc.		Distribution Max Havelaar products
	BD, PPP, AdC, SWI, CAR	IGOT		STEP Foundation
3 Food industry	BD, PPP, AdC	Migros, Veillon, Switcher Others	Clean Clothes Campaign	Clean Clothes Campaign pilot project
	CANES	Nestlé	Marketing infant formula (until 1982) Social utility of products, investment North	Application WHO Code (as of 1982), relations with suppliers, investment South
4 Pharmaceuti cal Industry	BD, MSF	Novartis	Priorities R&D, drugs prices in developing countries	Novartis Foundation for Sustainable Development
5 Power Industry	BD, CTOE	ABB	Participation large dams	Participation World Commission on Dams
6 Banks	APFS, BD, T- CH T-I	UBS, CSG, etc.	Combating money laundering	Combating money laundering
7 Industry and banks	APFS, BD, PPP, AdC	UBS, CSG, Novartis, Nestlé	Relations with South Africa under apartheid	
8 Travel	Akte Amnesty- Switzerland	Migros, Coop Some agencies	Tourism in Burma	Enlightened tourism in Burma

### 10.3.4 Instances of rapprochement

All the enterprises interviewed have entered into partnerships with NGOs, at least in the form of donations (confidentiality) and increasingly, in the form of sponsorship (advertising). The enterprises need to associate themselves with the NGO capital of sympathy, whilst the NGOs need to associate themselves with the enterprise's resources. Generally speaking, there seems to be an emerging trend towards partnerships concerning the companies' and producers' activities, and involving a sharing of skills (implementation of codes of conduct, fair trade and ethical labels, social certification), as well as partnerships based on association with an image (sponsorship, cause-related marketing).

That said, NGOs do have mixed sentiments regarding rapprochement with the private sector. Most of those interviewed believe that these instances of rapprochement constitute an interesting field of endeavour for the pursuit of their objectives. But many also underline the fact that without pressure or the threat thereof, dialogue and partnerships with enterprises will yield no tangible results. Some militant movements regard partnerships between humanitarian organisations and enterprises as smokescreens whose result, if not their objective, is to weaken political action aimed at changing the prevailing economic system. These movements exert pressure intended to thwart operations of this kind and have recently scored several international successes in instances of partnership between enterprises and NGOs and between enterprises and UN agencies.

### **10.3.5 Weight and legitimacy of NGOs**

Enterprises are realising that NGOs have considerable weight in political institutions and decision-making processes, but also, and perhaps even more importantly, in the spheres of the media and the shaping of public opinion. NGO activities are becoming more intense and globalised, and are garnering growing sympathy. That is a new situation for enterprises. They must learn to reach arrangements with these associations, militant networks and consumer movements, to manage this new type of public relations and, if possible, respond to the concerns expressed. The fact that all the companies consented to reply to a questionnaire about NGO-business relations for the purposes of this study, itself being conducted on behalf of an NGO (with public funding), is testimony to the credit given to NGOs by the players in the economy.

Enterprises do not always welcome the rise of NGOs and their growing capital of sympathy. These organisations, which are neither elected by the people, nor holders of market shares, but which have a wide audience, are capable of irking them. Several company representatives interviewed for this study have expressed their reservations about the legitimacy of NGOs. They observe that NGO capacity for action is not necessarily proportional to their representativeness (membership, sympathisers). But they just as quickly admit that their reservations count for very little and that the weight of the NGOs is a hard fact with which they must reckon.

### **10.3.6 Different levels of relationship**

Enterprises and NGOs are two worlds, each with their own interests, language and logic - the economic logic on the one hand, and the social/moral logic on the other. Indeed, dialogue is often difficult, plagued by lack of understanding, problems of translation, and misunderstandings. In this connection, an article analysing a series of business-NGO partnerships from the standpoint of organisational culture speaks of culture clash.<sup>201</sup> Yet the divergences are more obvious than the convergences, and there is a broad spectrum of NGOs. At first glance, one might think that NGOs and enterprises are simply glaring at each other from the street and from offices, then it becomes clear that they are finding something to talk about and finally that they actually start cooperating on concrete projects.

These various levels of relationship are not sequential but exist simultaneously. There is a recognisable and spontaneous division of labour in the NGO community and within the NGOs themselves: some players support development programmes, experiment with and run programmes for a social or solidarity-based economy, others promote utopias or representations of an alternative society, militate against economic globalisation, the WTO and transnationals, others seek to influence internal institutional decisions and regulations, others launch campaigns with specific demands addressed to companies by harnessing consumer support, others engage in dialogue and cooperation with enterprises on codes of conduct, labels and certificates and others benefit from donations, sponsorships or are commissioned to do work under private social initiatives, etc. This differentiation of activities is a source of intense discussion within and amongst NGOs, especially between those specialising in political action and those devoted to field projects, which are financially more demanding. Culture clashes also occur within organisations.

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<sup>201</sup> Andrew Crane, *Culture Clash and Mediation: Exploring the Cultural Dynamics of Business-NGO Collaboration*, *Greener Management International* 24, Winter 1998 (62-76).

Can we consider conflictive and cooperative business-NGO relations as an expression of a new form of international regulation of society, civil regulation as distinct from legal regulation? A study conducted in the UN framework looks into the relations of confrontation and cooperation between NGOs and enterprises from the standpoint of civil regulation, by exploring its potential and its limitations.<sup>202</sup> Are business-NGO relations foreshadowing the contours of a significant form of political action? Is a new form of power being exercised outside the framework of the State?<sup>203</sup> How are institutional players reacting? What are the linkages between civil regulation and legal regulation? The concept of civil regulation offers an interesting field of study for the social and political sciences, for the theoretical description of contemporary society and for analysing specific societal phenomena.

### 10.3.7 Reluctance

Some NGOs and some persons within them are ill at ease with the idea that a social initiative taken by an enterprise does serve its economic ends. This is borne out by the reluctance of some charitable organisations to co-operate with Migros and Coop in the Max Havelaar project (Chapter 2). Others think that if companies are to be seriously expected to incorporate human rights into their activities, one must understand the profit constraints and recognise that public relations and advertising are legitimate in that regard. This does not mean ceasing to monitor the behaviour of enterprises, to influence the content of their initiatives and to engage in political lobbying within institutions. As specialists in human rights and development, the NGOs have an enormous task ahead in that connection: monitoring, guiding and assisting enterprises in their social involvement, and familiarising themselves with their management methods, gaining a better knowledge of the economic rationales of partnership; NGOs have much to teach enterprises, but also to learn from them.

Many of the NGO staff interviewed consider it necessary to help enterprises. Companies are facing new challenges: human rights promotion is not taught in many business schools. The NGOs believe that they can make a pedagogical input and bring useful expertise to enterprises in defining and exercising their social responsibility. At the same time, NGOs are cautious in this approach, for fear of compromising their legitimacy, their power to exert pressure, or of losing sympathy. Some recognise that it would be desirable to help the enterprises but leave this task to others, themselves preferring to maintain a challenging and dissident stance.

For their part, enterprises are also hesitant. They have nothing against human rights or against the idea of incorporating them more into their activities, but they wonder how much that would cost and how much it would bring in. While there are no instruments for gauging and valuing specific initiatives in that field, they remain cautious and are often content to confine their human rights involvement to the adoption of general principles.

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<sup>202</sup> David F. Murphy and Jem Bendell, *Partners in Time? Business, NGOs and sustainable development*, United Nations Research Institute for Social Development, 1999.

<sup>203</sup> C.f. Gunther Teubner (ed.), *Global Law Without A State*. Aldershot., Dartmouth Gower, 1997.

## 11. Conclusion

### 11.1 Human rights and the normal activities of companies

The subject area of Business and Human Rights raises the question of the spin-offs from company activities for the development of the host countries. The theme of development is indeed closely bound up with economic, social and cultural rights: a country's development will be achieved if these rights are implemented, and vice versa. Many analysts also see a relationship between the observance of civil and political rights, and development. This interlinkage is borne out by the fact that more and more, at the national and international levels, at governmental and non-governmental levels, development co-operation policies and human rights policies are coming together and mutually enriching each other. "Development is a question of human rights"<sup>204</sup>

The role of enterprises in human rights is not limited merely to special, exceptional, seemingly philanthropic initiatives that they may or may not undertake. The human rights role of enterprises can already be gleaned from analysing the spin-offs from their normal activities. Before any consideration of corporate social responsibility, ethics or sustainable development, it is clear that companies' normal activities do impact on the human rights situation and on the development of the countries where they are located through production, marketing and relations with the various stakeholders. This impact is felt mainly through job creation, the marketing of goods and services, helping to develop infrastructure, cooperation with the local economy, the transfer of know-how and technologies, the payment of taxes, all of which are elements that could favour the exercise of human rights in a country.

Three types of human rights/enterprise linkages are discernible, and can be encapsulated in as many questions:

- Is the enterprise involved in human rights abuses?
- Are company activities fostering the realisation of human rights?
- Is the enterprise taking initiatives to enhance its role in fostering a climate favourable to the realisation of human rights?

By and large, the findings set out in this study answer the last two questions. As such, it is not so much a question of whether enterprises infringe human rights or whether they are accomplices to such infringements. What is chiefly at issue is determining what aspects of the company's activities have an actual or potentially positive impact on the human rights situation.<sup>205</sup> Economic activity and the quest for justice are different social practices, each with its own logic and motivations. It must be recognised, however, that there is some convergence between enterprises and human rights and means must be devised to intensify and increase the instances of such convergence.

The point should be made that some NGOs tend to concentrate on the first question: is the enterprise involved in human rights violations? There have been many actions and publications from this perspective. By way of example, mention may be made of a study conducted by the Europe-Third World Centre (Geneva), the American Association of Jurists and the FICAT Foundation in Barcelona, for the Working Group on Transnational Corporations of the United

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<sup>204</sup> Geneva 2000 Forum, Final Report and Summary of Proceedings, p.51. [www.geneva2000.org](http://www.geneva2000.org)

<sup>205</sup> For a study on references to human rights in company charters, see Philippe Spicher, *Les droits de l'homme dans les chartes d'éthique économique*, Berne, Fribourg, Swiss National Commission for UNESCO, Centre Info, Institute Interdisciplinary for Ethics and Human Rights, 1996.

Nations Sub-Commission on the Promotion and Protection of Human Rights. That study examines and interprets the following issues from the standpoint of human rights abuses involving transnational corporations: marketing of infant formula, access to essential drugs in poor countries, working conditions in the export textile industry and in banana cultivation, the Bhopal tragedy, the social impact of oil and mining projects, the impact of genetically modified organisms.<sup>206</sup> In this light, the activities of transnationals are viewed as essentially negative for human rights, and there is militancy for the adoption and application of legally binding measures and initiatives of dialogue and partnership between NGOs and enterprises are viewed with much reserve.

## 11.2 All enterprises

Human rights are at one and the same time a set of rules to be complied with and a political objective of the international community, to which its members are committed, it is a project in constant evolution. As such, human rights are not exclusively the province of governments and courts, but also of "every organ of society" (Preamble to the Universal Declaration of Human Rights).<sup>207</sup> Accordingly, the Global Compact proposed by the Secretary-General of the United Nations calls on enterprises to promote human rights in their sphere of influence.

Indeed, this does not concern only enterprises from the "old economy", especially those processing materials and producing goods using labour, or those active in a country with a regime considered to be oppressive (e.g. textile and oil industries). These are indeed the most exposed, the ones physically closest to critical human rights situations, which explains why they are the foremost targets of NGO campaigns. In the global economy, however, all enterprises can identify a link between their activities and the improvement of the world human rights situation. Moreover, it is quite likely that public expectations concerning social responsibility will in future also encompass companies operating in situations of low ethical risk but where there is strong economic growth.

From the viewpoint of enterprises, human rights and the challenges of development must not only be viewed as a risk to be managed, but also as an opportunity to be seized. It is possible to undertake unusual initiatives, to take the offensive or to be proactive in promoting human rights, without waiting for a critical situation to develop, for a public opinion campaign or a press revelation that jeopardises the company's reputation. Many manufacturers and distributors of garments and carpets, for example (Chapter 2), did not wait until they became campaign targets to start putting considerable effort into programmes designed to improve working conditions in developing countries.

Campaigns are launched by NGOs and by enterprises. Companies such as The Body Shop and Benetton have stood out for their stances and their public relations campaigns regarding human rights. Patagonia and Ben & Jerry, American garment and ice cream manufacturers have also stood out on social questions. After having been the target of several critical campaigns by human rights and environment protection organisations, the Shell oil company has now made the theme of human rights central to its public relations and it co-operates with some of these organisations on the matter of its relations with the communities in the vicinity of its facilities.

"New economy" companies are also launching initiatives linking the promotion of their brand name with human rights promotion. Hence, in 1999-2000, World Online, an Internet access provider partly owned by the Swiss family foundation Sandoz, joined Amnesty International in a publicity campaign. Another example: in 1999, the US company Cisco Systems entered into a partnership with the United Nations Development Programme aimed at combating extreme

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<sup>206</sup> Europe-Third World Centre, American Association of Jurists, Fundación FICAT Barcelona, *Transnational Corporations and Human Rights – Case Studies and Responsibilities*, document prepared for the Working Group on Transnational Corporations of the United Nations Sub-Commission on the Promotion and Protection of Human Rights, 2000. <http://www.cetim.ch/stn/stncouv1.htm>

<sup>207</sup> <http://www.un.org/french/aboutun/dudh.htm>

poverty.<sup>208</sup> Service companies such as financial or insurance companies, which at the outset seemed remote from sensitive human rights questions, are now finding a link with these issues in certain ethical investment products and in their relations with other companies.

### 11.3 From public relations to action

The dimension of public relations, image and reputation is of capital importance in today's world for enterprises and for the other players in society. It is no surprise therefore that enterprises approach social questions in this light. Enterprises wish to convey a good image. If public opinion adopts the idea that a good image is a social one, enterprises will be anxious to show a social image. They will want to engage in social public relations.

A good many observers believe that corporate social commitment is limited to public relations operations, and doubt that there are corresponding practical innovations by the enterprises. Social public relations by enterprises can also be seen as an incentive to action. Aware of the importance of social public relations and presuming that the public expects words to be followed by actions, enterprises are prompted to determine what elements of their present and future activities best correspond to the image that they wish to convey. This leads them to mainstream certain aspects of their activities in preference to others: the working conditions they provide for their employees, efforts in environment protection, the relations they have developed with their suppliers, the social utility of their products, their partnerships with charitable organisations, etc. In this process, which is evolving in the direction of social reporting, enterprises can identify weak points, come up with possible improvements, and decide to take steps accordingly.

The public relations constraint can spur action. If it is considered in their surroundings that a good image is a social one, the enterprises will voluntarily undertake more and more social initiatives, whether small or major, cosmetic or substantial. It then becomes worthwhile to focus on the content, the reach and the utility of those initiatives. Private enterprises embody skills, resources and networks of considerable import. They are capable of adapting to novelty. There is much that they can do. For NGOs, governments and all human rights advocates, the challenge is to guide and assist enterprises in their reflection and in their social actions. The challenge is to encourage the business community to invest in human rights.

### 11.4 Social accountability

Consumers, investors and employees are becoming increasingly alive to social issues. The enterprises themselves are reflecting on the matter, they are setting up think tanks, drafting social reports and launching initiatives. At the same time, they remain cautiously expectant, as they would like their initiatives to be appreciated and their efforts recognised. They are keenly following the evolution of the various methods of social accounting, of instruments for gauging and comparing corporate social performance.

Much work is under way on the assessment of corporate social performance in economic organisations such as the World Business Council for Sustainable Development,<sup>209</sup> the Coalition for Environmentally Responsible Economies or the Prince of Wales Business Leaders Forum,<sup>210</sup> in institutions devoted to social cohesion and the promotion of partnerships between governments, enterprises and civil society, such as The Copenhagen Centre<sup>211</sup> (which grew out of the 1995 World Sustainable Development Summit), in organisations bringing together trade unions,

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<sup>208</sup> <http://www.netaid.org>

<sup>209</sup> <http://www.wbcsd.org>

<sup>210</sup> <http://www.pwblf.org>

<sup>211</sup> <http://www.copenhagencentre.org>



employers and governments, in auditing and consulting firms, in banks, in companies specialising in ethical investment, as well as in some NGOs.

The challenge of social accounting is a complex one: how does one measure and compare the social performance of an oil company, a telephone service operator, a garment manufacturer and a lawyers' office? How can one simultaneously take account of working conditions in the enterprise, its contribution to improving the working conditions of its partners, its contribution to the wellbeing of the communities where it is established, its initiatives to advance human rights, and its relations with governments or the social utility of its products? There have been many initiatives in this domain, but no single one has so far emerged as the valid frame of reference for companies in all sectors; some are of universal scope but are limited to working conditions in the industry (SA 8000). A frame of reference covering all aspects of company activities would enable them to draw up their social report and would give impetus to their social endeavours. Observers of companies (consumers, investors, analysts, governments) could consider their social record in making their assessments and choices. Such instruments exist in the sphere of environmental protection. Some contain social components and are used by ethical funds. But the social content of investment funds based on the concept of sustainable development still seems negligible by comparison with the environmental component.

### **11.5 The role of government**

The preceding chapters have not dealt with the question of binding standards pertaining to human and labour rights. International legal experts are discussing the matter of corporate legal accountability for human rights abuses.<sup>212</sup> Specifically, they are attempting to determine possibilities for prosecuting enterprises for direct or indirect involvement in such abuses. A working group of the United Nations Sub-Commission on Human Rights is studying various options pertaining to the role of enterprises in human rights; binding measures is one of those options, as well as the provision of incentives. Suits have been filed with US courts against oil companies and garment manufacturers over their behaviour in Burma, Nigeria, and in several countries in Asia.<sup>213</sup> Lastly some quarters would like to see labour rights incorporated into the rules governing international trade (social clause in World Trade Organisation agreements).

Broadly speaking, the role of binding standards for the behaviour of companies in the sphere of human rights would seem limited. Legally binding and effective decisions concerning human rights have so far focussed primarily on the behaviour of governments themselves.

The State has an important function with regard to corporate social initiatives and NGO activities. International institutions are the place of adoption of political and legal principles - human rights, labour rights - that inspire associations and enterprises in drawing up rules and taking voluntary measures. Besides, at the national level, the State participates in legitimising the NGOs and to some extent therefore legitimises their campaigns: recognising the public utility of the association or foundation, funding - some NGOs discussed in this study receive over half their funding from the Swiss Confederation. The role of the State with regard to corporate social initiatives is set to grow. A range of incentives must be studied, in particular those pertaining to human rights promotion. Some potential leads are given hereunder.

#### **11.5.1 Promotion of ethical investment**

Since recently in Great Britain, and perhaps soon in Germany, a law requires pension funds to disclose their investment policy and to state whether or not they apply ethical criteria. Time will tell whether measures of this kind can spur the social behaviour of companies and investors. Other ethical investment promotion measures must be studied and envisaged, such as a quality label and a specific body of rules.

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<sup>212</sup> See, for example, Silvia Danailov, *The Accountability of Non-State Actors for Human Rights Violations: the Special Case of Transnational Corporations*, Geneva, October 1998.

<sup>213</sup> Christopher L. Avery, *Business and Human Rights in a time of change*, Amnesty International UK, 2000.

### **11.5.2 Selective procurement policies, conditionality**

It is conceivable that the State (Confederation, cantons, municipal authorities) could include considerations regarding corporate social responsibility, specifically the behaviour of enterprises with regard to human rights, in its procurement policy and in the award of contracts. Selective procurement policies have been adopted by some US public authorities.<sup>214</sup> The Confederation is also looking into the possibility of introducing human rights-related conditions for the grant of export risk guarantees and other types of credit.<sup>215</sup>

### **11.5.3 Guarantees against the risks associated with human rights promotion**

In the same way that incentives are given to companies investing in environmental protection and creating jobs in Switzerland (export risk guarantee, tax refunds, various rebates), Swiss enterprises promoting human rights abroad could also enjoy certain fiscal or other advantages. They could, for example, be given a guarantee against the risks associated with human rights promotion, such as those inherent in direct investment in a poor country, those accompanying the market launch of a product to meet an essential need, those of partnerships to promote local economic development or those involved in pressuring governments over human rights.

### **11.5.4 Human rights label**

Until a universal standard emerges for gauging, valuing and comparing corporate social performance, in particular, contributions to human rights promotion, a label could conceivably fulfil this function in part. In Switzerland, the idea of a social label has already been mooted at the cantonal level with regard to the behaviour of Swiss companies in Switzerland,<sup>216</sup> as well as their international behaviour in the human rights domain.<sup>217</sup>

The Confederation could advocate the creation of a human rights label as part of its human rights policy. That label would be awarded to companies undertaking the self-examination entailed in conducting a social audit, and those displaying imagination and initiative in taking on board and furthering human rights in their activities abroad.

A human rights label could, for example, encourage foreign and domestic investment and the development of infrastructure, the local and export economy in poor countries, furnishing them with products to meet essential needs, granting micro-credit, the transfer of technologies and expertise appropriate to sustainable development and the improvement of the human rights situation. That could prompt enterprises to promote human rights with those governments with which they have business relations and to strike up partnerships with international agencies, with national governments and with local communities in such areas as the creation of enterprises, health, nutrition, education and democratic institution-building.

For the purposes of defining and awarding a human rights label, the problems of measuring and comparing company behaviour and commitments, discussed in connection with the evaluation of companies' overall social performance, are yet to be resolved. The creation of a human rights label from a North-South perspective could be a first stage. What is important is creating a climate favourable to the economic players who are prepared to devise cooperative economic mechanisms, win-win situations, partnerships profitable to shareholders and to populations.

### **11.5.5 Switzerland's political project**

Active involvement by enterprises in promoting human rights abroad is a new challenge for the occupations, know-how and the conceptions of work and quality that are usual in Switzerland. It is

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<sup>214</sup> Christopher L. Avery, *Business and Human Rights in a time of change*, Amnesty International UK, 2000.

<sup>215</sup> Joseph Deiss, Federal Councillor in charge of the Federal Department of Foreign Affairs (DFAE), in *La Suisse et le monde*, review of the DFAE, 1/2000, p. 4.

<sup>216</sup> Vaud Socialist Party Programme, 1998-2002 period.

<sup>217</sup> Thomas Cottier, *Avoir l'œil sur les entreprises*, discussion organised and published by *La Suisse et le monde*, review of the Federal Department of Foreign Affairs, 2000.

an opportunity to enhance the motivations of the country's citizens and the satisfaction of company employees. It is the opportunity to offer to the world an enriched presence and image incorporating business acumen, the humanitarian tradition and the practice of good offices. In short, it is the means of securing a future favourable to enterprises that have grown beyond the confines of Switzerland. The Swiss economy must be of benefit to the world in the same way that it benefits from the world. What is at stake is no doubt Switzerland's interests, as well as the sentiments, both individual and collective, that comprise the identity and the will to live together. What is at stake is its political project.