The Corporate Accountability Movement:
Lessons and Opportunities

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## Introduction

There is a rich quarter-century history of attempts, many of them international in scope, to make corporations more accountable to communities, workers, and environmental concerns. Yet, unlike the environmental movement or the civil rights movement, there is no self-conscious "corporate accountability movement." Instead, there are hundreds of scattered corporate campaigns, many of which have been highly sophisticated, successful, and have crossed borders and movements. These efforts have made major inroads into the tobacco industry, the arms industry, and the apparel and footwear industries, and have changed the way many corporations approach the environment and treat their workers. No one of whom we are aware, however, has attempted to look at these efforts together or assessed the lessons of their successes and failures.

This paper is primarily focused on corporate activity in the developing world. It is by no means a comprehensive review of every effort to influence corporate behavior in the developing world. Rather, it is an attempt to offer an analytical typology for understanding different campaigns and what they have achieved, a bit of history of two of the main instruments of the campaigns, some lessons from the campaigns, and some controversies that have emerged in the work. The paper also strives from the outset to offer criteria for assessing the effectiveness of various campaigns. Finally, the paper sketches out new challenges to the movement presented by the recent explosion of private financial flows to the developing world, and ends with our own reflections on the current state of the evolving corporate accountability movement and its relationship to new movements that are addressing economic globalization. The paper is aimed both at individuals and groups who have been involved in such campaigns as well as those who might wish to join in.

The authors were asked by the World Wildlife Fund to share their expertise on this subject building on two decades of observation of and involvement with various aspects of the "corporate accountability movement." The authors have been based, as researchers and activists, in the both developed and developing countries, working in public, private, and non-profit sectors. As such, this paper is not an empirical attempt to assess specific campaigns or the overall movement but, rather, an attempt to share analysis and reflections based primarily on past research and experience.

A further caveat: What we are calling the "corporate accountability movement" is vast and diverse and, as Harris Gleckman so aptly put it in his comments on a draft of this paper, "a 'movement' that does not for some reason recognize its own history." Summarizing and analyzing it in fifty-odd pages is therefore a near impossible task. As readers will see, the authors' own experience is stronger vis-a-vis certain parts of the corporate responsibility movement than in others. We also want to make it clear from the start that we have tried to choose examples of this work to highlight specific points, again not to present in-depth empirical documentation. We apologize in advance for the fact that we will inevitably have omitted some readers' favorite campaigns.

## I. Typology: A Matrix

To assess these various campaigns, we believe it is most useful to group the numerous attempts to enhance corporate accountability according to five analytical categories:

A. By Strategic Goals.
B. By the Target of the Activity: corporations directly or indirectly through governments.
C. By Method - The Chosen Instrument of Accountability:

corporate codes, trade agreements, other actions to influence corporations, legislative instruments, actions to influence consumers.

D. By the Initiating Actors: environmental groups, unions, religious groups, investors, local Southern groups, consumer groups, human rights groups, and farm groups.

E. By the Geographic Scope of the Campaign: national, regional, or international.

Keep in mind that many campaigns defy easy categorization. A group in Chicago may campaign to convince Unocal to leave Burma. At the same time they may pressure the Chicago City Council to pass a resolution banning government contracts to firms operating in Burma. Simultaneously, they may lobby the Clinton administration to pass a law barring U.S. government contracts with firms doing business in Burma. The campaign may start with religious activists, but spread to investor activists, consumer and labor organizations. Or it may be launched by religious and other groups acting as investors. It may begin in Chicago, but spread into a national coalition with links to similar efforts in Germany and France. It may target both firms and governments for action.

Before discussing in more detail the five categories of this typology, we first offer some thoughts on how to measure success and failure.

Effectiveness Criteria:

Part of the purpose of this paper is to share our impressions of the effectiveness of various approaches. A major void in recent initiatives to make corporations more socially and environmentally responsible is that there have been shockingly few, if any, comprehensive attempts to assess the levels of effectiveness (or ineffectiveness) of different strategies. Indeed, the "corporate accountability movement" itself has no agreed-upon criteria for measuring "effectiveness" or "success."[2]

As a starting point, therefore, we offer 6 criteria for "success" or "effectiveness" which will help frame our assessments throughout the paper and come explicitly into play in lessons we draw:[3]

1. Changing Corporate Behavior: To what extent has a campaign changed corporate behavior? This can be assessed at two levels:

- Has a campaign been effective in convincing corporations to agree on paper to change behavior, such as the signing of a code of conduct?
- Further, is there evidence that the firm has followed

through on the promise? In other words, has a campaign changed corporate behavior in a way that has had a real, positive impact on communities, workers, and/or the environment? These changes may be in corporate <u>production</u> techniques (e.g. dolphin-safe fishing techniques; elimination of child labor) or in <u>marketing</u> techniques (e.g. the end of deceptive marketing by infant formula companies).

2. <u>Strengthening Government Oversight</u>: To what extent has a campaign resulted in a stronger governmental or inter-governmental capacity to place checks on abusive corporations?

Again, gauging effectiveness here requires looking at two levels: First, has new legislation or some other instrument toward this end been promulgated? And, on a second, more crucial level of effectiveness, has the <u>implementation</u> of that instrument had a real, positive impact socially and/or environmentally?

3. <u>Strengthening Non-Government Oversight</u>: To what extent has a campaign created new mechanisms of non-governmental oversight of corporations? Has this new oversight had a real, positive impact socially and/or environmentally?

4. <u>Changing Public Awareness and/or Consumption Patterns</u>: To what extent has this effort resulted in increased education of the public in the North that has affected how individuals view their consumption choices? Has that broader public awareness or media attention led to an actual change in purchasing or consumption patterns?

5. <u>Catalyzing New Coalitions</u>: To what extent has a campaign created new working alliances among groups which ultimately strengthen the corporate accountability movement? Are these new alliances across sectors -- for example, environmental groups joining trade unions in a campaign? Do these alliances cross country borders? Do they join Northern groups to Southern groups? Have these new alliances had a real, positive impact socially and/or environmentally?

6. <u>Brought New Actors into the "Corporate Accountability Movement"</u>: To what extent has a campaign introduced new actors into the corporate accountability movement? Have these new actors had a real, positive impact environmentally and/or socially?

There is also a time dimension to judgements of effectiveness. Campaigns need to be assessed in short, medium and long terms. It is possible to do this with some of the older campaigns, such as the baby food campaign. Much of the current wave of corporate accountability initiatives is still too young to be assessed over the long run, although we, at points, will share our personal assessments of what we see as the likely trajectory.

Let us quickly add that how one assesses the "success" of a particular campaign also depends on one's strategic goal (which we discuss immediately below). For instance, proponents of the Bangladesh "Memorandum of Understanding" to remove child labor from the Bangladesh export garment sector claimed that it would shift up to 25,000 children from factories to schools by the beginning of 1996. If we use the initiating group's goals to evaluate the campaign, we might well get a different evaluation of effectiveness than if we assess the campaign using another strategic goal.

Now, we turn to the five areas of typology which offer a framework for analyzing the corporate accountability movement.

A. By Strategic Goals: Campaigns around corporations have been launched by thousands of different groups over these past decades with hundreds of different strategic goals. These campaigns tend to fall somewhere along a continuum of strategic goals. This continuum has three main poles:[4]

- At one end, some campaigns seek to fundamentally change the corporation or to get rid of corporations overall: Some activists seek either to abolish large corporations or fundamentally transform corporations. For example, a re-chartering movement is growing in this country that seeks to reestablish democratic control over corporations by rewriting corporate charters in a fashion that would return to the public the ability to revoke charters of corporations which no longer advance the public good.[5] Some activists in this movement grew out of a campaign to pressure Union Carbide to come to grips with deep flaws in Union Carbide that led to the Bhopal disaster; some of them ultimately concluded that Union Carbide should have its charter revoked.

- Towards the middle, some campaigns seek to change the rules that govern corporate behavior: There are a number of groups and campaigns that seek to change the rules that govern corporate behavior either at the national or global level. These include efforts to create a United Nations code on transnational corporations that would have offered a blueprint to governments on how to provide a set of protections to corporations as well as workers and communities (detailed below). Others have suggested that the world needs a global anti-trust authority to break up dangerous concentrations of global corporate power. A new agreement among the richer countries of the world (detailed below) to curb corporate bribery of government officials falls in this category. It would be fair to say that groups falling in this category tend to accept the premise that the market, left to its own, will create certain social and environmental problems that require government intervention. Since the most dynamic corporations in the world are now global, these groups have sought inter-governmental measures.

We also include in this category attempts by non-governmental groups to create enforceable codes of conduct on specific categories of corporations, work that is evolving quickly in the United States and Europe in the apparel, footwear, and toy industries. If the strategic goal of the campaign is to create new binding and enforceable rules (even if the enforcers are non-governmental actors) that will influence corporate behavior on more than an individual case, then the campaign falls into this category.

- At the other end, some <u>campaigns seek to reform individual abusive practices of a corporation</u>: This category includes, for example, a wide range of environmental groups that accept large corporations as inevitable and generally beneficial to society but which seek to engage corporations in dialogue to improve their environmental behavior. Voluntary corporate codes of conduct would fall into this category. Those falling in this group tend to believe that corporations need help in understanding how they can advance social and environmental goals and at the same time enhance profits. They believe that voluntary arrangements work best.

A number of points are worth mentioning with respect to this continuum of strategic goals. First, many corporate campaigns that end up either attempting to change governing rules or seeking to reform individual firms did not start out as corporate campaigns. Indeed, most corporate campaigns have been launched by concerned citizens who were seeking to address one of a multitude of problems: Lois Gibbs discovers people being poisoned in Love Canal; a community wants to clean up a river; indigenous peoples strive to protect their ancestral lands; women in a country seek to promote breast-feeding. In each of these cases, individuals coming together around specific issues often discover that the key institution that is the source of the problem is a large corporation, perhaps national and perhaps transnational. The nature of their campaign then shifts to target the corporation.

On this point, it is our observation that in countries where civil society is generally well organized and politicized, such as the Philippines and India, many groups do initiate campaigns specifically targeted at corporations. Indeed, in both of these countries there are organizations devoted to corporate research and education and the general knowledge of activists about corporations is high. In other countries (including many in Africa) where civil society is less well organized, campaigns are more likely to begin around particular problems and then may evolve to include corporations as targets.

Campaigns can, of course, evolve and move along this continuum of strategic goals. Some campaigns, for instance, begin with the strategic goal of reforming a particular corporation and evolve into attempting to reform the governing rules. A community campaign to stop the destructive logging practices of two firms in the southern Philippines, for example, evolved into a campaign to call for a general logging ban in the country.[6] In that same area of the Philippines, some indigenous people protested against Del Monte's grab of their ancestral lands by initially campaigning for cash payments for their lands. For some, the campaign later evolved into a campaign for the respect of the ancestral land rights of indigenous people across the country.

It is also worth pointing out that different groups may deploy different tactics and instruments towards the same strategic goal. A variety of activists currently seek to convince apparel and retail companies to agree to a strong and enforceable corporate code of conduct to eliminate sweatshop conditions around the world. Some confront with demonstrations and media exposes. Other engage corporations across the table.

A final point on strategic goals, which we will return to in the final section of the paper, is that as economic globalization accelerates, and governments set new rules that offer new global protections to corporations (such as the North American Free Trade Agreement, the World Trade Organization, and the proposed Multilateral Agreement on Investment), many corporate campaigning groups are resetting their sights on these new institutions of global governance. Indeed, today, attempts to influence corporate behavior may arguably be categorized as a subset of a larger universe of literally thousands of examples of citizens organizations in the 1990s working to stop, slow down, or reshape the path of economic globalization in ways that promote democracy, equity, and sustainability. From the anti-NAFTA coalitions to farmers organizing to protect their seeds in India to efforts to curb child labor, these campaigns involve millions of environmentalists, workers, consumers, religious activists, farmers, and women.[7]

B. <u>By the Target of the Activity</u>: Most campaigns involve citizen groups organizing for a specific outcome. In some cases, these non-governmental groups are joined by governments; more often they are not. These campaigns invariably attempt to effect change at one of two levels:

- Some attempt to influence <u>corporate behavior directly</u>, some through pressure, some through dialogue, and some through a combination of both.

- Other campaigns attempt to influence corporations by changing government policy either in a single country, a region, or across the globe.

A few campaigns employ a mix of influencing corporations and government policy simultaneously. To take one recent example: Building on a U.S. television expose of child labor in the Bangladeshi garment industry, labor, human rights, and consumer activists in the United States, working with allies in Bangladesh, targeted both retail firms like WalMart and governmental agencies for action. Pressure at the governmental level culminated in a "memorandum of understanding" signed on July 4, 1995 between the Bangladesh Garment Manufacturers and Exporters Association and two United Nations agencies: UNICEF, and the International Labor Organization (ILO). Under the threat of a consumer boycott of Bangladesh clothing by U.S. groups, the Bangladesh garment firms agreed to a plan to move upwards of 25,000 children out of the clothing industry and into schools.[8] Close to $1 million from the three parties to the agreement will go toward verifying the end of child labor, schooling for the former child workers, and a modest stipend to the families of the children.

1. Corporations: Campaigns that view corporations as the target of activity range from those that target individual firms, to those that target an entire industry (as in the Bangladesh example just given), to those that target either a specific issue or firms in a specific country.

a. A single corporation: Thousands of campaigns have been organized against single corporations over the past few decades. Some are primarily local such as one that the Southwest Network on Economic and Environmental Justice has been waging against Intel in Albuquerque; others attain global status such as the campaigns against Union Carbide in the wake of the Bhopal accident or the work against Shell in Nigeria. Again, these campaigns run the gamut from confrontation (kicking Coca Cola or Kentucky Fried Chicken out of India) to engagement (the Environmental Defense Fund convincing McDonalds' to change its packaging materials). Success in the former campaigns usually depends upon amassing widespread support across sectors of the public to gain power over the firm; success in the latter cases usually involves constructing actions that convince a firm that what is good for society at large can also be good for its bottom line.

b. An industry: Campaigns have often been launched to change behavior in an overall industry. Since the 1970s, for example, coalitions of Northern and Southern groups have worked to press for health-related reforms in the cigarette, alcohol, pesticide, pharmaceutical, and baby food industries. More recently, corporate code of conduct work has been targeted at the apparel and footwear industries and, in Europe, the toy industry.

c. A set of social or environmental concerns that crosses industry sectors: At times, campaigns will attempt to influence a broad range of firms around a set of concerns. An example of this is the work of the Boston-based Coalition for Environmentally Responsible Economies (CERES), a collaborative effort between institutional investors and environmental groups. According to CERES Co-Chair Joan Bavaria, CERES began "as part of a project of the Social Investment Forum to attempt to influence corporate behavior but also to find ways to access accurate information on environmental performance."[9] In September 1989, CERES issued its list of 10 principles of environmentally sustainable behavior -- originally known as the Valdez Principles (after the Exxon Valdez Oil Spill) and now called the CERES Principles -- which individual companies were asked to endorse.[10] A key point is that companies signing the principles agree voluntarily not only to general principles and specific actions to protect the environment (for example, making "continual progress toward eliminating the release of any substance that may cause environmental damage...") but to back them up with an "annual self-evaluation of...progress in implementing" the principles and to "annually complete the CERES Report, which will be made available to the public."

Early signatories to the CERES Principles included such relatively small and still largely U.S.-oriented companies as Ben and Jerry's and Stonyfield Farm Yogurt. As CERES has evolved over nearly a decade, it has become more successful at getting a broader range of firms to sign onto these principles. Notable among the more than fifty signatories as of early 1997 is Sun Company, which in 1993 broke from the ranks of the big oil companies and Fortune 500 companies to sign on. Other large, multinationals joining since then are Polaroid, H.B. Fuller, General Motors, Bethlehem Steel and, more recently, BankAmerica.[11]

d. All corporations in a geographical area: In the cases of South Africa and Burma, people of conscience from around the world have pressured companies to change their behavior or to leave the country as a way to put pressure on oppressive regimes. In South Africa, an impressive campaign was launched in many countries involving state and municipal officials, investors, unions, religious groups, and others to pressure corporations to stop doing business in South Africa as a protest against the racist policy of apartheid. Participants used the pressures of selective investment, the power of government procurement contracts, divestment, and other measures to help pressure the apartheid regime to free

Nelson Mandela from prison and to hold the country's first universal elections. One component of the campaign in the early phase was the so-called Sullivan Principles, wherein firms agreed to end apartheid conditions in their own workplaces. (While some might argue such campaigns with a longer-term goal of influencing the political process in a country are not part of the corporate accountability movement, campaigners viewed the fact that a corporation was in Burma or South Africa as a "corporate abuse." Hence, we include these campaigns.)

The geographic area may not be a country; substantial campaigns have targeted the over 3,000 maquiladora factories along the U.S.-Mexico border. The Coalition for Justice in the Maquiladoras pulled together over 100 environmental, religious, community, labor, women's, and Latino organizations to fight the dismal working and environmental conditions in the factories that dot the 2,000 mile U.S.-Mexico border. The Coalition drew on U.S., Mexican, and United Nations standards to craft the "Maquiladora Standards of Conduct" that spells out acceptable standards for firms in the areas of environment, health and safety, worker rights, and community impact.

2. Government: Some campaigns target governments at every level from local to the United Nations to get resolutions, legislation, agreements, or voluntary codes passed, each of which will affect corporate behavior.

a. Local or State: One of the key levers used in the Burma and South Africa campaigns was local and state governments passing resolutions to prohibit contracts with firms that were operating in these countries. At the present time, activists who work at this level are extremely concerned that World Trade Organization rules and the proposed Multilateral Agreement on Investments will prohibit the use of such "selective" purchasing. Michael Shuman of the Institute for Policy Studies has proposed the establishment of a code of practices among local government officials that spells out guidelines for corporate behavior.[12] This would prevent the kind of destructive playing off of communities against one another that large corporations engage in as they seek the most attractive sites for new investments.

In a similar effort, but targeting one firm, the Council of Canadians has attempted to curb the destructive effect that the spread of WalMart is having on Canadian communities. They have assembled a list of demands that they are encouraging local officials to require of WalMart in exchange for the right to build new stores.

b. National -- home government: Many campaigns attempt to influence government agencies in the countries where large firms are chartered (the so-called "home governments"). Many Northern governments have programs to give reduced tariffs to imports from Southern countries; many of these programs are called Generalized Systems of Preferences or GSP. In 1984, U.S. labor, human rights and religious groups convinced Congress to amend the GSP program so that reduced tariff benefits would be available only to countries taking steps to ensure internationally-recognized worker rights. Likewise, many environmental campaigns have targeted government export-promotion agencies to stop assistance to firms investing in objectionable projects. For example, U.S. groups convinced the U.S. Export-Import Bank not to give assistance to firms bidding on contracts to build the Three Gorges Dam in China. One difficulty of such a tactic is that if similar campaigns do not achieve comparable results in France, Germany, Japan and other homes of large firms, then a U.S. campaign may simply divert contracts to firms based in other countries.

c. National -- host government: Occasionally, campaigns have targeted action at governments that host corporate subsidiaries. For example, after a great deal of negative publicity about sweatshop conditions in maquila factories in Guatemala, the Guatemalan government agreed to a code to eliminate sweatshop conditions in the country.

d. Regional: When a free trade area for North America was first proposed by Presidents George Bush and Carlos Salinas in 1990, broad citizen movements formed to fight the agreement and to propose alternative integration agreements that imposed responsibilities on global firms to balance the new global rights they would receive under NAFTA. In the end, the three governments agreed to supplemental language (in "side agreements") to protect labor rights and the environment. NAFTA creates a precedent for attaching labor and environmental issues to regional trade agreements. The issue of what sort of linkage should exist, if any, between trade, labor and the environment has become the central issue in the current U.S. Congressional debates over extending authorization to the President to negotiate future trade agreements (the so-called "fast-track authority").

e. Multilateral: There is a vibrant three-decade history of efforts to pass multilateral agreements to influence corporate behavior (dealt with in section II. A.). Work at this level is essential, since advances in any given country can be undermined by firms simply shifting operations to other countries. International agreements can "level the playing field" in a positive direction, even if most simply offer guidelines which must then be passed into law by national legislatures. Here is an introduction to five such efforts among many:

- UN Code of Conduct on Transnationals: Beginning in

1975, governments spent 13 years attempting to negotiate a United Nations code to reduce corporate abuses as well as to guarantee firms certain forms of equal treatment. The Reagan administration opposed the effort and the code effort died.

- UNICEF/WHO International Code of Marketing of Breastmilk Substitutes: During much of the 1970s and 1980s, Northern and Southern religious and consumer groups collaborated to attack Nestle and other infant formula companies for deceptive marketing practices which induced mothers to forgo breast-feeding their children in favor of commercially-produced infant formula. Since water-born disease is one of the primary killers in the developing world, powdered milk mixed with untreated water likewise transmits disease. Moreover, many poor families could ill-afford to spend their meager financial resources on a product that was available for free from mothers. These campaigns used the pressure of consumer boycotts which culminated in the World Health Organization/UNICEF marketing code in 1981. Efforts have continued into the 1990s to convince governments to enact domestic legislation based on the code.[13]

- Basel Convention: Environmental groups spearheaded by Greenpeace launched a major campaign in the 1990s to convince governments to place restrictions against international trade in hazardous waste products. This campaign culminated in governments passing a Basel Convention on international waste trade.

- Proposed "Social Charter" in the WTO: Over the past decade, there has also been a concerted attempt by trade unions, other groups, and some governments to amend the GATT (and since 1995, its successor, the WTO) to include worker rights and, more recently, environmental rights and standards. Such an amendment would, for example, place trade sanctions on governments that systematically undermine basic worker rights, which in turn would penalize offending corporations. This strategy has proven among the most controversial even among various citizen groups (see section III. C.).

- OECD Convention to Outlaw Foreign Bribery: In 1997, the OECD passed an agreement to outlaw foreign commercial bribery by firms based in any of the 29 member countries. All members agreed to sign the convention by the end of 1997 and to introduce laws in their national legislatures by April 1998 to subject their companies to criminal penalties for bribing foreign officials while soliciting business. The goal is to get all 29 governments to sign such bills into law by the end of 1998. The longer-term goal is to get all nations to accept the convention under the aegis of the WTO. The convention was the work of an international NGO named Transparency International, made up of former corporate, government, and World Bank officials.

C. By Method: The Chosen Instrument of Accountability: One can also group activities around corporate accountability according to the chosen instrument of accountability. Recently, a great deal of the work has focused around two instruments: corporate codes of conduct and introducing worker rights and environmental standards into trade agreements. We describe seven additional main categories of instruments: direct actions, lawsuits, ethical competitors, shareholder resolutions and actions, dialogue, legislative instruments, and actions to influence consumers. (Section II of this paper deals with a brief history of efforts using the first two instruments.)

1. Corporate Codes: Section II. A. offers a history of efforts to enact corporate codes of conduct. Efforts have focused at three levels: multilateral agreements negotiated by governments; voluntary codes passed by industry associations or individual firms; and newer, enforceable codes that are agreed to by individual firms or by industry groupings. The multilateral agreements covered a broad range of issues, while the newer company-specific and industry-specific codes have focused more on ending abuses of worker rights.

2. Trade Agreements: Section II. B. offers a short history of efforts to link worker rights and environmental standards to trade agreements. These efforts have resulted in substantial changes in U.S. trade law, and some steps forward in both regional and global trade agreements.

3. Direct Actions: Some groups deploy more militant actions to curb abusive corporate behavior. These range from picketing and occupying corporate offices, to lying down in front of bulldozers, to plugging effluent pipes. Greenpeace is the best known organization deploying such tactics, but others as well use direct action. Many of the Southern-initiated campaigns (particularly in Asia and Latin America) against specific corporate abuses use direct action.

4. Lawsuits: Several groups have resorted to the courts to pursue corporate abuses overseas. Groups that work with indigenous organizations in Ecuador brought a suit against Texaco for destroying indigenous lands in that country. Others have filed suit against Shell for its activities in Nigeria and Freeport McMoran for its activities in Indonesia.

5. "Ethical Competitors": In a number of instances, organizations have set up corporations to market "ethical" products, with the goals of influencing the larger market. For example, Greenpeace worked for years to pressure

refrigerator manufacturers to make non-CFC refrigerators. Finally, Greenpeace commissioned a company in East Germany to manufacture non-CFC refrigerators, which put pressure on other firms to follow suit.

6. Shareholder Resolutions and Actions: The Interfaith Center for Corporate Responsibility is a 25-year old association of nearly 250 religious denominations. In one recent year, ICCR members submitted 198 shareholder resolutions to press for corporate accountability in the areas of the environment, alcohol and tobacco, equal opportunity, South Africa, militarism, maquiladoras, excessive CEO pay, and other subjects. While seldom winning, the resolutions serve an educational purpose for both corporations and the public. ICCR is part of a larger social/ethical investment movement which is mobilizing the power of large institutional shareholders to exercise influence on the corporate world.

7. Dialogue: A number of organizations, such as CERES, have used dialogue with firms to help them craft corporate policies that simultaneously serve social goals and enhance a company's profitability. Many of these efforts have been in the environmental field, perhaps not surprising since polls show some four-fifths of the U.S. public concerned with environmental issues. Through dialogue with environmental groups, corporations have taken major strides on recycling, packaging, and other areas. Through labeling, advertising and other means, the firms then communicate their action to the consuming public. At times, dialogue follows a period where other groups have confronted corporations, such as the White House-sponsored dialogue on apparel sweatshops that followed several exposes of firms' bad behavior.

8. Legislative Instruments: Harris Gleckman and Riva Krut have spelled out the many avenues by which governments can influence and steer corporate behavior.[14] These include, among others:

- the authority to create and dissolve corporations through corporate charters.
- the authority to offer incentives and disincentives for certain types of corporate behavior;
- the ability to set principles for social welfare, public health and cultural integrity and to set regulations from these principles;
- structures to review products, processes, investments, transactions, or services before or after market entry;
- enforcement mechanisms or sanctions to implement public decisions.

Democracy activists Richard Grossman and Frank Adams believe that corporate campaigns should focus more on governments' power to create and dissolve corporations. In the United States, corporations exist through charters that are granted by state governments. Originally, charters obligated firms to serve the common good; if they did not, the charter could be and sometimes was revoked.[15] By the late 19th century, corporations managed to subvert this original purpose. Grossman and Adams suggest that the time has come for citizens to get involved again in the chartering business. State governments could be encouraged to adopt a code of conduct that would accompany new charters. If companies violate the code, the charter would be revoked.

While countries exercise to varying degrees all of these instruments, we now operate in a world of global corporations and few of these instruments are developed on an international scale.
The new anti-bribery convention is a good example of an international convention designed to influence national laws around the world.

9. Instruments to Influence Consumers: Inasmuch as corporations cannot exist without consumers, consumers can have enormous influence over corporate behavior. A number of campaigns have attempted to influence consumer behavior through boycotts, labeling, ethical shopping guides, socially responsible investing, and alternative trading organizations:

a. Boycotts: A recent issue of Co-op America's Boycott Action News documented citizen campaigns against Philip Morris and 57 other companies by citizen groups around the country.[16]

b. Labeling: Around the world, groups have introduced labeling schemes to help consumers reward corporations employing "good" business practices. Goods made with recycled products carry a label in a number of countries. Tropical timber that has been "sustainably" harvested carries a label. A "green seal" program is quite advanced in Europe. There is now a strong movement in the United States to include a "no sweat" label in clothing that is made under decent working conditions.

One of the more advanced labeling efforts targets child labor in South Asia: the RUGMARK campaign. The campaign was initiated by the South Asian Coalition on Child Servitude (led by a courageous Indian named Kailash Satyarthi) in collaboration with German and U.S. religious, consumer, and labor groups. RUGMARK-approved rugs have a special label affixed underneath to ensure buyers that adult workers, earning at least the local minimum wage, have knotted this rug. In this case, there is an independent monitoring system in place: manufacturers who join RUGMARK -- as companies that own 15 percent of the looms in India have -- consent to surprise inspections by local human rights and child advocacy groups. The bigger breakthrough with RUGMARK, however, is not simply that child labor has been abolished; it is that the former child laborers are not simply thrown out on the streets to fend for themselves, in less-savory sources of employment (such as prostitution). Rather, RUGMARK Foundation is working with U.S. and European importers to earmark a surcharge for the "rehabilitation and education of former child workers in this industry."

c. Ethical Shopping Guides: The Council for Economic Priorities has innovated the "Shopping for a Better World" books that guide consumers to products made under socially and environmentally responsible conditions. Several such guides now exist. Some groups are engaging Consumer Reports to get that magazine to introduce social concerns in their rating of products.

d. Socially Responsible Investing: Billions of dollars each year are invested at home and abroad by managers of mutual funds, pensions, and insurance companies. Realizing that more people and institutions are concerned with social and environmental issues, there is now the emergence of socially and environmentally sensitive mutual funds and pension instruments.

e. Alternative Trading Organizations (ATOs): Over $500 million worth of trade is now handled outside corporate channels by small firms that attempt to link worker-owned cooperatives directly to consumers. So-called "alternative trading organizations" (ATOs), such as the Massachusetts-based Equal Exchange which markets coffee from Southern cooperatives to U.S. consumers, strive to educate consumers and to demonstrate that socially and environmentally-responsible products can also be profitable.

D. By the Initiating Actors: As governments have increasingly shied away from serving as a check on abusive corporate activity, a variety of non-governmental actors have increased their involvement in this arena. Some, like unions and environmental groups, bring millions of members to the task. Others, like investor groups, wield power as shareholders. Different initiating actors bring different cultures, different primary concerns, and different constituencies to this work. When these various segments of organized civil society join forces, they can create potentially effective countervailing power to the growing power of global corporations.

The main sets of organizations that have addressed corporate issues in recent years are environmental, labor, religious, and investor organizations, and Southern NGOs, followed by consumer, human rights, and farm groups.

1. Environmental Groups: By far the most diverse in its approach has been the environmental movement, in part

because of the widely divergent strategic goals of different environmental groups. Hence, it is hard to summarize the environmental movement's impact on corporations; dozens of different groups have deployed tactics along the spectrum from confrontation to engagement. Environmental groups have probably had the greatest impact on influencing consumers and activating consumer pressure on corporations. In coalition with investor groups in CERES, they have had a major impact on beginning a process of standardizing the environmental reporting of a number of corporations.

They have had less impact on corporate codes because there is little common agreement on what environmental standards should be included in codes. Likewise, environmentalists have had relatively little impact on U.S. trade law, in part again due to lack of common definition of environmental rights and standards, but also because some groups in the Third World oppose the idea of attaching trade sanctions on environmentally-destructive production process standards. This controversy has been in the headlines with Mexican and Venezuelan groups opposing U.S. tuna-dolphin trade legislation, and it has spread to the WTO discussions.

2. Labor Unions: Labor unions have had the longest and most intense contact with corporations, having engaged firms for decades in organizing struggles and collective bargaining sessions. Unions were involved in the multilateral negotiations for a UN Code of Conduct on Transnational Corporations, and for years they have organized corporate campaigns to use media and other pressure in attempts to influence corporate behavior. In recent years, they have been leading forces in the successful legislative efforts to link trade preferences to other countries' respect for core labor standards, and in pressing for corporate codes of conduct. Their relative success is due in part to the narrow nature of their demands: enhancing worker rights and improving working conditions.

Environmental groups would do well to learn from these successes; in particular there is a great deal of space to introduce a core set of environmental standards into enforceable corporate codes of conduct. A starting point could be the CERES Principles, which represent a U.S.-based effort to spell out 10 principles of environmentally-responsible corporate behavior, albeit voluntary ones. CERES is helping to convene a "'summit' of some of the voluntary efforts to set standards," an effort which should be supported.[17]

3. Religious Groups: Religious organizations own large blocks of stocks in thousands of corporations and for over a quarter century have spearheaded corporate responsibility via shareholder resolutions. They have also joined unions in the battles against the spread of sweatshop

conditions at home and abroad. Most churches have focused on engaging corporations since many large churches include corporate leaders among their members.

4. Investors: There is a long history of investor activism that reaches beyond the religious community to unions, pensions, universities, insurance companies, and the field of socially responsible investment advisory groups. Such institutions have initiated certain corporate accountability exercises, such as CERES, and they have joined many other campaigns, from work to improve conditions along the U.S.-Mexico border to South Africa and Burma. They often work in coalition with others; a 1990 Washington Post article, for example, referred to CERES as a "potent alliance of investors and environmentalists that was formed to force corporations to accept more responsibility for their environmental conduct. The members of the coalition...hold millions of shares of stock in major corporations."[18] Notable among CERES members are the New York City Employees Retirement System and the California public pension system. At the same time, many large institutions with a social agenda, such as unions and environmental groups, are only beginning to use their power as investors (through their endowments and pension funds) in socially responsible ways.

5. Southern NGOs: There are over 150 countries of the South, which are host to close to 120,000 affiliates of transnational corporations[19] and the recipient of over $240 billion in private financial flows annually (detailed in section IV. A.). As would be expected, this level of activity has generated a variety of responses. At the governmental level, there is currently an overwhelming desire to attract new investments and other private flows; hence governments have been easing restrictions on corporate activity. At the non-governmental level, there has been a remarkable variety of responses, from countries where repression is extreme (activist leaders in Indonesia, for example, are routinely thrown in jail) and in recent history non-governmental activity is limited, to countries like India and the Philippines where non-governmental organizations exist in the tens of thousands.

Overall, as part of the growing backlash against globalization, there is a great deal of activity amongst Southern NGOs (labor, environmental, social, indigenous, women, and others) to take on the dominant free market, structural adjustment policies that governments along with the World Bank and IMF have so strongly embraced. Close to 1,000 NGOs from around the world, for example, have united in a "Citizens' Structural Adjustment Participatory Review Network" that is conducting a joint global review of World Bank structural adjustment lending with the World Bank itself.[20]

Southern activism specifically on corporations, as mentioned earlier, often grows from citizens banding together to address a specific problem and later discovering that a corporation or group of corporations is the source of the problem. In some cases, campaigns grow to embrace tens of thousands of people as in Indian campaigns to kick Cargill and Kentucky Fried Chicken out the country. In other cases, local activists link up globally, such as a loose global anti-cigarette companies network that groups like the Advocacy Institute in Washington help facilitate. Many activists in natural-resource rich Southern nations have taken on mining, forest, fishing, and agribusiness corporations, often in areas where indigenous peoples are fighting for control of their ancestral lands from encroaching corporations.

While there are growing linkages among these campaigns across borders in many sectors (cigarettes, mining, forestry, textiles and footwear), there is still an enormous lack of information about what is going on in different countries. One effort trying to create more ongoing ties across sectors is a Corporations Committee of the San Francisco-based International Forum on Globalization.

E. By the Geographic Scope of the Campaign: Campaigns have attempted to influence corporate behavior at every geographic level: local, national, regional, and international, and there are examples of successes and failures at each level.

## II. History and Background of Main Instruments

The two sets of instruments that are most in use today are corporate codes and trade agreements. Hence, the history of these two areas is dealt with in some detail.

A. Codes: There is a quarter-century history of governments, corporations, and citizen groups negotiating different kinds of corporate codes of conduct. Most that have been enacted have been voluntary and the codes have had varying degrees of impact. After a brief historical overview, we will offer some thoughts on the effectiveness of the main approaches. Several recent campaigns have begun to experiment with ways to create enforcement mechanisms for the codes; this has become a critical arena of work. However, for a variety of reasons discussed later, the new initiatives to address and enforce worker rights and standards seem to be moving faster than the attempts in the realm of environmental rights and standards.

At least some of the corporate problems that communities now face was foreseen by the architects of the postwar global economic institutions. The original Havana Charter for an International Trade Organization (ITO) included a proposal for an international antitrust law.[21] It contained a chapter on

"Restrictive Business Practices" of TNCs. It included measures to address employment and worker rights. The U.S. business community attacked these proposals and the U.S. Congress never ratified the ITO. Instead, the much more restricted General Agreement on Tariffs and Trade (GATT) was set up which dealt quite narrowly with the issue of reducing tariff barriers to trade in manufactured goods. Hence, part of today's agenda around corporate accountability was debated fifty years ago. Many argued that GATT should have a "social clause" which defined the violation of workers' basic rights as unfair trade practices punishable by trade sanctions. As the broader International Trade Organization was voted down, so too was this linkage defeated.

In the wake of the revelations that IT&T assisted in the Chilean coup of 1973,[22] a strong movement emerged among non-governmental organizations and Third World governments advocating greater corporate accountability around the world. With Third World governments raising a unified call, the United Nations created a Commission on Transnational Corporations in 1975 which set out to negotiate a UN Code of Conduct on Transnational Corporations. The draft United Nations code required corporate disclosure of potential dangers of products and production processes, non-discrimination in the workplace, and a number of other measures. The Reagan administration along with some European governments and Japan opposed the effort, and the negotiations collapsed. Indeed, under strong pressure from the U.S. government and conservative think tanks (most notably the Heritage Foundation), the Commission was dismantled in the early 1990s and a segment of its staff was transferred into a small unit of another United Nations agency.

In 1976, the developed country members of the United Nations used the Organization of Economic Cooperation and Development (OECD) to pass guidelines on "International Investment and Multinational Enterprises" that recognize the rights of workers to organize and bargain collectively. It includes lengthy suggestions on corporate disclosure to workers of planned layoffs.

Another United Nations body which has passed a code on corporate behavior is the International Labor Organization (ILO). In 1977, the ILO adopted a "Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy" which offers guidelines to governments, firms, and workers in the areas of industrial relations, employment, training, and working conditions. This code is broader than the OECD code and includes such issues as job creation and subcontracting. It also includes a more elaborate complaint procedure involving the power to investigate firm behavior. However, like the OECD code, the ILO code is voluntary and has not had a significant impact.[23]

Citizens groups such as the International Organization of Consumer Unions (IOCU) worked hard to little avail in the early 1990s to revive interest in the UNCTC code or a similar set of guidelines and mechanisms on foreign direct investment. A number of groups that met in Delhi in February 1994 in a Conference on Fairplay in Global Business likewise committed themselves to this task. American University law professor Diane Orentlicher and co-author Timothy Gelatt suggest that the Group of Seven would be a good forum for a concerted effort at adherence to a set of global principles on transnational corporations.[24] Since the overwhelming majority of the world's TNCs originate in these seven countries, this might prove an easier arena than the United Nations. Likewise, now that the 29-member OECD has passed a bribery convention, the OECD could be a useful venue for a broader discussion about corporate accountability.

Beginning in the 1970s, a number of corporate associations responded to these governmental codes, which they feared could become mandatory, by drawing up their own voluntary codes of conduct. Some of these were sponsored by global groups such as the International Chamber of Commerce; others were advanced by firms in specific sectors, such as the Pharmaceutical Manufacturers Association. The best known effort of this nature on the environment was the 1991 International Chamber of Commerce Business Charter on Sustainable Development. All these efforts share the distinction that the principles and business practices that they seek to advance are voluntary.

One of the most recent corporate efforts emerged from a group entitled the Caux Round Table, formed in 1986 by business leaders from Japan, Europe, and the United States. Their "Principles for Business," signed in 1994 by a number of TNC executives in their personal capacity, state that global corporations "should play an important role in improving economic and social conditions" and they offer a series of principles for corporate activity toward consumers, employees, investors, suppliers, competitors and communities. Many of the principles are laudatory, yet in the absence of any enforcement mechanisms or independent audits, the Principles and others like them remain largely a public relations strategy by global firms.

Citizen campaigns for corporate codes grew rapidly in the 1970s as citizens spread news about corporate support for apartheid, unethical marketing practices by infant formula corporations, abusive practices by the global pesticide, alcohol, soft drink, and tobacco industries, and revelations about a global firm assisting in the overthrow of the Allende government in Chile.

The momentum of these campaigns, many of which were global, was slowed during the 1980s by the free market triumphalism of the Reagan, Bush, Thatcher, and Kohl administrations. During this period, the very legitimacy of governmental oversight of corporate affairs was called into question and the movement to enhance global governance of corporations was significantly set back. The 1980s set the context for a shift in emphasis in the movement toward non-governmental actors as the main countervailing power to corporations during the 1990s.

By the mid-1990s, the problems of a privatized and deregulated global market economy were becoming evident in almost every country. Since the early 1990s, unions and human rights groups have focused their code efforts on one of the more dangerous trends in the globalization of production by large firms: subcontracting. As technological innovations increased the ease with which firms can shift production to different sites, many firms began to subcontract parts of the production process to different countries. A Nike sneaker, for example, may have an air pocket manufactured in the United States, but it most likely has been assembled by a young woman in Indonesia or China. The factory in which the women work may be owned by Koreans or Indonesians or Chinese, but it is not owned by Nike. As flagrant abuses of workers in such "subcontractors" began to reach the attention of human rights activists in the late 1980s, firms often responded by denying knowledge or responsibility for what happened in someone else's firm.

Increased pressure in the 1990s by human and labor rights groups led some firms to adopt their own voluntary codes of conduct for their subcontractors.[25] Sears and Levi Strauss, for example, agreed not to contract production to firms that used prison labor or committed other specified violations of worker rights. Persistent violations in China prompted Levi Strauss to announce that it would phase out all production contracts in that country. As of the mid-1990s, Levi Strauss claimed to have discontinued contracts with 35 of their roughly 700 subcontractors because of violations of their code.[26] Eddie Bauer, Levi Strauss, and Liz Claiborne have all stopped subcontracting in Burma due to flagrant violations of human rights.[27]

A major impetus behind several of these recent codes has been the Amalgamated Clothing and Textile Union (now merged with the ILGWU to form UNITE) working with the Clothing Manufacturers Association of the USA. In the collective bargaining settlement signed between the union and the association on October 1, 1993, it was agreed that all employers within the Clothing Manufacturers Association would agree to a detailed set of worker rights provisions for any outsourcing they contracted. European groups working with labor rights advocates primarily in Asia have likewise launched a "Clean Clothes Campaign" to press retailers and garment firms on working conditions in their supplier factories.[28]

In both the United States and Europe, citizen campaigns against Nike and other footwear companies resulted in a code being adopted by Nike. Reebok also adopted a voluntary code of conduct. The British organization Christian Aid, working with the London-based Fairtrade Foundation and contacts in developing countries, examined these and other codes and has drafted a "Model Code of Practice" that addresses weaknesses in the current codes.[29] In July 1995, several European and Asian organizations responded to fires and exploitative work conditions in Asian toy factories with a call on toy firms to adopt a model "Charter on the Safe Production of Toys."[30]

As other citizen organizations have joined the work on codes, they have employed consumer pressure to help convince firms to adopt codes. In early 1995, the Guatemalan Labor Education Project and allied groups began to put pressure on Starbucks to adopt a code to govern conditions under which the coffee they sell is grown. After minimal consumer pressure, Starbucks management agreed to adopt a code and has begun the drafting work.

The Clinton administration, under some pressure from human rights groups, addressed the issue of corporate codes over the year-long period from June 1994 through May 1995. In the summer of 1994, the Clinton administration landed in the middle of a battle between large corporations and the labor and human rights communities over the issue of China. China's trade status with the United States was up for review and a favorable renewal depended on an administration ruling that China had taken positive steps in seven human rights areas. Despite the clear lack of progress in a number of these areas in China, several large U.S. firms with significant interests in China, led by Boeing, argued that China's trade status should be renewed. Human and worker rights groups argued that the trade status should be revoked.

In an attempt to compromise, Clinton announced on May 26, 1995, that the trade status would be renewed and the human rights linkage dropped, but that the administration would work with all parties to devise a voluntary code of conduct to encourage responsible business behavior in China. One year later, in May 1995, the Clinton administration launched its voluntary one-page "Model Business Principles" which it "encouraged" all businesses to adopt.

In the view of the human rights groups, the main flaw of the Principles was that they were voluntary. Activists, led by the International Labor Rights Fund, pointed to several legislative avenues to advance greater enforcement of the code. First, most governments offer incentives for firms to invest overseas. In the case of the United States, the Overseas Private Investment Corporation offers firms insurance on overseas investment. A foreign tax credit allows U.S. firms to avoid paying U.S. taxes on their foreign subsidiaries activities if the subsidiaries are paying taxes in the host country. Portions of the tariff code offer incentives for firms to set up factories overseas to process U.S.-made parts and send them back to the United States. Some argued that as each of these programs comes before the U.S. Congress for reauthorization or for consideration, Congress could simply amend them to state that firms that are to be recipients of government resources must sign a statement that they will respect the provisions of the revamped Clinton code. The code would remain "voluntary" in the sense that firms could ignore it with impunity; yet if they wanted the benefit the government programs, they would have to abide by the code.

The debate over the Clinton Principles revealed 5 larger problems with most voluntary codes:

- Lack of a uniform language for the codes (although the language in several recent codes is beginning to converge).
- Lack of compulsory enforcement mechanisms. There is now a great deal of evidence that even when firms adopt codes of conduct to advance worker rights in their subcontractors, they seldom enforce them. A survey of corporate codes in Guatemala, for example, by the Wall Street Journal revealed that corporations made next to no effort to train or encourage their own inspectors to check on worker rights violations in subcontractors.[31]
- The codes lacked language on sexual harassment, a particularly serious problem in the textile industry since most managers are men and most workers are women.
- The wage clauses were often unclear and inadequate. Most required only the payment of a "legal wage," which in most countries is far below the poverty level. ACTWU (now UNITE) has been pushing for a "livable" or "living" wage based on the market value of a basket of consumer goods. The Coalition for Justice in the Maquiladoras has found that many global firms do not even know how much their subcontractors pay their workers. This distinction between minimum wage and living wage became a major sticking point in the 1997 White House Apparel Code which, at the insistence of industry, opted for minimum wage language.
- Many of the codes covered only their subcontractors, and not the paid employees of the company.

These problems prompted many groups to begin pressing for new enforcement mechanisms including independent, external monitoring of codes. Three initiatives have advanced this debate:

- The Gap: In 1995, the National Labor Committee, the textile union UNITE, religious groups, and allies in Central America launched a campaign against the Gap, a company that had its own voluntary code of conduct. The National Labor Committee generated widespread publicity around the dismal working conditions of girls as young as 13 who make clothes for the Gap and other U.S. firms and who toil in sweatshops up to 70 hours a week earning under 60 cents an hour. The Committee brought two such workers from Central America who sew clothes for the Gap and other U.S. firms on a tour through the United States. As religious and other activists in both the United States and El Salvador joined the chorus of disapproval, the Gap announced it would leave El Salvador, and shift to suppliers in other countries. At this moment, activists broadened the campaign, demanding that the Gap stay in El Salvador, pressure its contractors to respect basic worker rights, and allow independent monitoring of a Gap code of conduct.

On December 15, 1995, in the midst of the Christmas shopping season, the Gap agreed to all these demands. A "pilot program" for external, independent monitoring system of Gap's corporate code of conduct was set up initially for the one Salvadoran factory whose worker rights violations had sparked the NLC campaign. That independent monitoring was subsequently expanded to two other Salvadoran factories with which Gap contracts (and, as of late 1996, Gap was looking into the possibility of conducting a similar pilot project in Honduras).

- FIFA: The Washington-DC-based "Foul Ball Campaign," based at the International Labor Rights Fund, was launched in early 1996. It targeted the Federation International of Football Associations (FIFA) which certifies soccer balls (football meaning soccer in most of the rest of the world) used around the world. The campaign demanded that brand-name corporations leasing the right to use the "FIFA-Approved" label on their balls ensure that all contracts with their suppliers include a "no child labor" clause.

The uproar caused by the "Foul Ball" campaign and a related one in Europe -- buttressed by a <u>Life</u> magazine photo essay on child labor that included a haunting photo of a 12-year-old Pakistani sewing a Nike soccer ball -- led FIFA to announce a strong code of conduct that goes beyond sanctioning child labor to ensuring broader labor rights such as freedom of association and collective bargaining. Now, FIFA is working with citizens groups, trade unions, and international bodies like the ILO on the details of how that monitoring will be done.

- White House Apparel Code: In mid-1996, then Labor Secretary Robert Reich initiated a dialogue among leaders from the apparel and footwear industries and representatives from human rights and labor rights organizations. After an initial 9-month period, the group released in April 1997 a "Workplace Code of Conduct" that included strong guidelines on worker rights. The agreement included a detailed "Principles of Monitoring" that spelled out both "obligations of companies" and "obligations of external monitors." The group continues to work on the details of the monitoring and enforcement mechanisms.

<u>Effectiveness of various code efforts</u>: Even though work on corporate codes is in a state of great forward movement, it is possible to offer some preliminary thoughts on the effectiveness of various efforts:

- <u>Codes adopted by or through international organizations</u>: Some of these codes have the advantage of broad international support among governments and hence can result in binding domestic laws. They also avoid the problem of individual countries being punished by corporations for enacting legislation that puts restrictions on firms. Not surprisingly, there have been few such codes, yet the concept of a broad UN code of conduct retains great appeal. Note, however, that some of the efforts, like the OECD and ILO codes, did not aspire toward binding domestic laws and hence have been less effective in any gauge of success.
- <u>Codes adopted by industry associations or individual firms</u>: The wide range of industry codes which began in the 1970s was little more than a public relations exercise and largely failed even in generating positive public relations outside corporate circles.
- <u>Codes proposed by NGOs</u>: The new generation of codes being pushed by NGOs have, in several cases, begun to change public awareness, and with public pressure have begun to change corporate behavior. Many of these campaigns have catalyzed new coalitions and brought new actors into the corporate accountability arena. As they gather in strength and learn from each other, they build momentum toward greater enforceability. Yet, they suffer from not being backed up by law.

B. <u>Labor and Environment in Trade Agreements</u>: The 1990s could be dubbed the "decade of free trade agreements" given the flurry of such negotiating activity at both the regional and global level. Campaigns have attempted, with varying success, to inject social and environmental concerns into these negotiations to influence the behavior of the global firms that are the ultimate beneficiaries of the new agreements. These campaigns build on a rich history of the linkage of worker rights to trade in U.S. legislation. Corporations have lobbied heavily against such regulatory efforts, even more ardently than they have fought enforceable corporate codes.[32] Corporations fear that the linkage of rights and standards to trade agreements brings in trade sanctions as a powerful enforcement tool. Hence, corporations tend to view even the relatively weak labor and environmental language in NAFTA as an extremely dangerous precedent, the extension of which to other agreements should be fought at all costs.

Here is a brief history of the U.S., the regional, and the global efforts to link social standards with trade.

1. In the United States: Numerous campaigns over the past century have targeted U.S. government trade policy as a way to address certain negative corporate labor practices. As early as the late 19th century, workers and worker rights advocates fought successfully to link respect for worker rights to trade benefits. A McKinley Tariff Act of 1890 prohibited the domestic trade of goods made by convicts in the United States.[33] Over the ensuing decades, there were a number of related measures that limited U.S. imports of goods made by prison labor. The movement to link trade to worker rights, however, really took off in the United States in the 1980s when labor, human rights, and religious activists created the International Labor Rights Fund. The participating groups studied 70 years of International Labor Organization (ILO) deliberations in order to specify the most basic of internationally-recognized worker rights: freedom of association, the right to collective bargaining, bans on child and prison labor, and minimum standards with respect to wages, working conditions, and health and safety standards. (We will return to this point in the "Challenges" section.)

Working with allies in the U.S. Congress, these groups helped to craft U.S. legislation to link U.S. trade and investment privileges to other countries' respect for basic worker rights. The U.S. corporate community, viewing the legislation as an infringement on its freedom to profit from differences in the respect for rights among countries, fought the linkage. Yet on four occasions over the past decade, the U.S. Congress has passed legislation linking trade and investment privileges to respect for worker rights. First, in 1984, the U.S. Generalized System of Preferences, whereby many goods from the Third World entered the United States without paying tariffs, was amended so that if a country was found to be violating internationally-recognized worker rights, it could be denied the duty-free benefits. Similar amendments were attached to the Overseas Private Investment Corporation, the Caribbean Basin Initiative, and the Trade Act of 1988.

Threats by the U.S. government to withdraw trade preferences have led to important reforms in a number of countries. For instance, in response to looming U.S. sanctions, El Salvador worked with the ILO to adopt a more comprehensive labor code. The government of Sri Lanka reacted to similar pressure by agreeing to open its garment industry to collective bargaining. Indonesia announced a 29 percent increase in its minimum wage in 1994 after the United States threatened to remove trade preferences. However, the U.S. government has at times used this linkage to political ends -- punishing governments of non-allies which abuse worker rights while ignoring abuses of allies.

2. With NAFTA: The 1990 announcement by then Presidents George Bush and Carlos Salinas of plans to negotiate a North American Free Trade Agreement set off a four-year debate over the rules of regional integration. Many citizen groups in all three countries opposed the idea outright. Others, including a significant portion of the environmental community, argued for enforceable worker rights and environmental standards to be part of the agreements. In the end, pressure from these groups led the U.S. government to propose the negotiation of side agreements to NAFTA on the environment and on labor. Hundreds of TNCs banded together in a corporate alliance (USA*NAFTA) which opposed the side agreements and, in the final agreement, the linkage between trade and labor and environmental rights was quite weak.

The Clinton administration continues to pursue a strategy of extending free trade to the entire Western Hemisphere piece by piece. The next areas that are slated to be folded into agreements on the NAFTA model are Chile and the Caribbean Basin. Citizen groups from the hemisphere have seized upon this agenda to argue that NAFTA should not be the model for hemispheric integration, but rather that new provisions to advance worker and environmental rights and standards be at the core of new agreements. The White House has announced that it will send new fast track language to Congress in September 1997, with Republicans arguing against any social linkage and Representative Gephardt leading an effort to strengthen the linkage of labor and environmental standards to trade agreements.

3. With the WTO: For over 50 years, debates over the content of global trade rules have included fights over whether trade benefits should be linked to countries' respect for core worker rights. Today, the U.S. and other Northern governments, with support from their trade unions, continue to argue for a linkage in the World Trade Organization, the 1995 successor to the GATT.

## III. Lessons and Controversies

We offer lessons from 5 corporate accountability activities that have been successful by at least one of our gauges. Then we offer some general overall lessons, some of which are culled from the 5 campaigns. Finally in this section, we outline some challenges and controversies that remain in the work.

A. Lessons from 5 Successful Campaigns: Here are some lessons from 5 of the most successful corporate campaigns. We selected 3 current campaigns with widely divergent approaches, and 2 of the campaigns from the 1970s and 1980s that were the most successful.

1. U.S. White House Apparel Code (1997):

- Effectiveness thus far: a group of corporations agree to enforceable code; new plans for non-governmental monitoring; enormous increase in public awareness of sweatshops; good potential to affect consumption as labeling discussion proceeds; pulled together labor, religious, and investor groups, along with several human rights groups that had not been involved in code work.
- Sophisticated use of high profile media: A remarkably skilled media campaign was waged, largely by the New York-based National Labor Committee, with vivid media images of Kathie Lee Gifford crying, two teenage sweatshop workers from Central America, and Disney Pocohontas pajamas made in Haiti. Although the National Labor Committee is a very small organization, it is led by an outspoken individual who was able to gain credibility and momentum after a New York Times columnist began to report regularly on the sweatshop abuses. Even the cartoon strip Doonesbury featured Nike workers in Vietnam in 1997.
- High profile government and corporate leaders led by Labor Secretary Robert Reich and Kathie Lee Gifford were willing to engage and even took up the campaign.
- The highly visible media campaign put pressure on companies to sit down with labor and human rights leaders and negotiate the code.

2. Agreement to Outlaw Foreign Commercial Bribery (1997):

- Effectiveness thus far: 29 governments have agreed to strengthen oversight; modest increase in public awareness of problem; brought in new corporate and governmental actors.
- Influential people back campaign: even though many individual corporations benefitted from bribery, many corporate, government, and World Bank officials believed that the practice was bad for business and democracy.
- International NGO: some from the corporate, government, and World Bank community created Transparency International, an effective international NGO to coordinate the campaign.

- Action targeted at correct agency: campaign targeted the correct international agency, the OECD (whose 29 members are home to most global corporations) for action.

- Action built on U.S. legislation: the United States had model legislation in the Foreign Corrupt Practices Act of 1977, which served as a basis for the convention. Previous to the Transparency International campaign, many U.S. corporations campaigned to get rid of the Foreign Corrupt Practices Act because they argued it put them at a competitive disadvantage globally. The campaign created momentum in the other direction, toward creating the same strong legislation throughout the OECD countries as opposed to getting rid of the U.S. legislation.

3. U.S. Campaign on Burma (1990s):

- Effectiveness thus far: convinced several major corporations to leave Burma or not to invest there; new governmental legislation and action at local and state levels; success at raising public awareness; revitalized student activism on corporate issues and forged broad coalition including investors, students, unions, and religious groups.

- Sympathetic high-profile individual: The issue was high-profile around the world because of Aung San Suu Kyi's winning of the Nobel Peace Prize.

- The goal of the campaign was simple: get high-profile foreign corporations to cease operations in Burma.

- Myriad initiating actors: Learning from the South Africa campaign, activists helped stimulate action by many groups: students, local and state activists, investor activists, church groups, unions, and community groups.

- The country was not seen as highly strategic to the U.S. government nor was it a country of heavy U.S. corporate activity, and hence action was easier than with a more "strategic" country (such as China or Indonesia).

4. Infant Formula Marketing Code (1970s and 1980s):

- Effectiveness thus far: changed some corporate marketing behavior; created new inter-governmental code; changed public awareness enormously; created new coalition of religious, consumers, investors, labor and others, North and South.

- The issue was universally appealing, dealing with the health of babies and the outrage over corporate manipulation of Southern doctors, nurses, and mothers. Hence, it attracted a wide range of groups, led by religious activists, consumer groups, and Third World solidarity groups.

- Two United Nations agencies, UNICEF and the WHO, were attracted to the campaign and the idea of a code.

- Activists from North America and Europe coordinated closely.

- Simple issue: It makes sense for poor women to breast feed their babies. Lengthy explanations were not needed.

5. <u>South Africa Divestment Campaign</u> (1970s-early 1990s):

- Effectiveness thus far: convinced a number of corporations to adopt Sullivan Principles and then others to leave; involved state and local governments; significant increase in public awareness; catalyzed new coalitions and brought universities into the corporate accountability movement.
- As with infant formula, the issue was universally appealing, dealing with the "black and white" issue of apartheid, one of the most morally repugnant forms of social organization in the world.
- Myriad of instruments: There were many levels at which action was possible, from consumer boycotts, to government contracts, to investor activism, to voluntary corporate codes, to legislation.
- Activists from around the world were able to work together, and hence the South African government found itself isolated.

B. <u>Six Other General Lessons</u>

1. <u>Campaigns which involve North-South Partnership Work Best</u>: All 5 of the campaigns mentioned above and many others that have experienced some measure of success involved good North-South cooperation.  Southerners provided vital information, education, and supported the goal of the campaign.  In the case of the bribery convention, which was sensitive because it involved illicit activity between corporations and Southern governments, the campaign took the smart step of targeting action first in Northern countries.

North-South dialogues are useful as campaigns evolve. For example, in a North-South dialogue on corporate codes convened in 1996 in Germany, Southern groups expressed their frustration about Northern groups focusing campaigns around the "easy" issue of child labor while downplaying the more difficult issue of working conditions for those workers who are older than 16.  Northern groups explained that they often needed to use issues such as child labor as a tactical target to attract media attention.  Southern groups at the meeting indicated a potential willingness to work with such groups as long as the longer-term campaign would expand to broader worker rights.

Corporate work involving China is extremely difficult in good part because it is difficult to establish Chinese partners.  It is true that more independent women's organizations are beginning to emerge in China, followed by some environmental groups; however, human and labor rights groups are almost non-existent.  This poses challenges for groups like the International Rivers Network which has been deeply involved in work against the Three Gorges Dam in China.

Like many NGOs, the Network prefers to work in partnership with local groups and has moved carefully in China as it attempts to build local links. China also poses a problem to Northern groups who believe that Southern groups must be the ones to monitor codes.

2. Groups Deploying Different Tactics Can Reinforce One Another -- Confrontational Groups Can Create Space for Engaging Groups: Corporations are much more likely to engage in dialogue or negotiation when they face large-scale negative publicity from direct actions, well-targeted media campaigns, and other more confrontational tactics. Greenpeace and Public Citizen generally use confrontation to oppose certain corporate activity; the Environmental Defense Fund and the World Wildlife Fund generally engage firms to influence behavior. While such groups often appear in conflict with one another, the "confronters" can create more space for the "engagers." Greenpeace and Public Citizen's opposition to NAFTA, for example, created more space for groups attempting to create environmental machinery linked to the agreement.

3. Groups that Use Media Well Succeed More Often: In the 1990s, campaigns against sweatshops at home and abroad have succeeded so well precisely because dozens of graphic stories of corporate abuse have been documented on prime time television in magazine shows and the evening news, and have recently even been featured in "Doonesbury". The campaigns to stop or influence NAFTA were substantially buttressed by television images of environmental injustice and atrocities (for example, babies born without brains) on the U.S.-Mexico border. Campaigns to influence the GATT and WTO debates never achieved that level of success, in part because the campaigns were unable to create "visuals" for the media to dramatize and put a human face on their cases. And it remains relatively easy for corporations to use minority communities in the southern United States as environmental dumping grounds precisely because such communities are likely to be off camera and harder to interest the media in.

4. It is Easier to Succeed in Countries that are Less "Strategically" Important: Human rights, religious, and labor groups have been confronting and engaging corporations in both China and Burma for the past five years. They have convinced several corporations to leave Burma and convinced the U.S. government to take action, arguably because Burma is of little economic or geo-political importance to the corporations or the United States. China, by contrast, has human rights abuses of a similar scale. Yet the U.S. government has taken almost no punitive actions; China is on the verge of becoming the world's largest economy and is corporations' largest site of overseas investment.

5. Campaigns Often Need to Evolve in their Goals: A

number of corporate code initiatives that began as voluntary efforts have been evolving to address the need for enforcement. Since governments are shying away from corporate governance at the moment, much attention is shifting to new forms of non-governmental enforcement. For example, alongside specific case-studies such as the Gap which has moved from voluntary compliance to an important experiment with independent monitoring, CERES began the move toward enforcement with the standardized environmental report filed by participating corporations. CERES's longer-term goal is to move towards a process of authenticating the reports.

6. The Simpler and More Graphic, the Easier to Succeed: The infant formula campaign worked because it highlighted abuses against children. Today, attacking child labor is much easier than advancing the right to collective bargaining. Getting tuna transnationals to reduce dolphin kills in their tuna operations is much easier than creating a new UN environmental institution equivalent to the ILO (see next point).

C. Challenges/Controversies:

1. Environmental Rights and Standards Need to Be Elevated to the Status of Worker Rights: Work on advancing worker rights and standards with corporations and through trade agreements is perhaps a decade ahead of work on environmental rights and standards. This is not because of the public profile of the two issues. Indeed, environmental concerns rank higher in the public consciousness, albeit the profile of child and sweatshop labor are on the rise. The key reason is the existence of the International Labor Organization (ILO), which for 78 years has served as a venue where representatives from governments, corporations, and organized labor have hammered out collective definitions of internationally-recognized worker rights in over 150 conventions. Across the globe, five to seven of these are widely accepted as core rights and standards (including no child labor; no forced labor; and freedom of association). Hence, there is little disagreement between North and South, government and non-government, over what constitutes worker rights, and the ILO serves as a legitimizing body for these rights.

No such institution exists on the environment. While there are over 200 international environmental treaties, there is no governmental body where internationally-recognized environmental rights and standards are negotiated. Indeed, the main body currently attempting to set international environmental standards is a corporate driven entity: the International Organization for Standardization (ISO), based in Geneva. With input primarily from corporate bodies such as the International Chamber of Commerce, the ISO is drafting environmental standards, entitled ISO 14000, which are weak and lack performance criteria. This vital task of global environmental standard setting is too important to be left to a body so dominated by the private sector; it is vital that governments and NGOs engage this issue.

The work on environmental codes and linkages to trade agreements is unlikely to advance significantly until well-positioned institutions take the initiative to convene international environmental groups to begin discussions with governments and business to devise an ILO-like delineation of international rights and standards for the environment.

2. Some North-South Disagreement Over Placing Labor and Environmental Standards in Trade Agreements: While there is widespread support in the North and South for creating corporate codes of conduct to advance worker rights (and, in some cases, environmental standards), there is more controversy around linking enforcement of these rights and standards to trade agreements. Despite far reaching support for this linkage among trade unions in North and South,[34] the Third World Network in Malaysia has rallied a number of Southern citizen groups against the linkage on a number of grounds.[35] In a 1994 paper, the Network charged that the attempt to place "labor standards" in the World Trade Organization (WTO) "is quite clearly prompted not by feelings of goodwill towards Third World workers, but by protectionist attempts to prevent the transfer of jobs from the North to the South."

There is a possible compromise position that emanates from a three-year discussion among Mexican, U.S., and Canadian groups that concluded in a document entitled "A Just and Sustainable Trade and Development Initiative for North America" (a document which is now being expanded to include input from the rest of the hemisphere). That document came up with the following agreement for a just and sustainable alternative to NAFTA: Violations of internationally-recognized labor and environmental rights and standards should be considered unfair trade practices provided that:

- The dispute resolution mechanism be open to citizen input, be democratic, and Mexican or Canadian groups could challenge violations in the United States just as U.S. groups could challenge violations in Mexico.
- The sanction for violation be centered on the violator, e.g. the corporation violating labor or environmental rights, through fines rather than, as in NAFTA, on the government.
- Since the raising of labor and environmental standards in Mexico could discourage some new investment, a number of measures should be included in the overall agreement to reduce the inequalities between Mexico and the United States. This would include debt reduction, fundamental reform of the World Bank and IMF, and creation of new decentralized and democratic aid mechanisms that reach the poorer majority.

3. Often the More Responsible Corporations are the Ones Who Engage, Leaving Out the Less Responsible Ones: Levi Strauss has long boasted of its community and corporate responsibility. Hence, when groups began to accuse it of using sweatshop labor overseas, it moved relatively quickly to engage critics and to take action. That is similarly the case with most of the other corporations which have promulgated codes and/or been involved in the White House apparel meetings. Today, these corporations sometimes complain that they have been singled out for criticism despite their good actions because of their willingness to take some steps. For example, Levi Strauss has argued, largely correctly, that the other major jeans producer Vanity Fair (Lee jeans) has refused to engage and hence is largely out of the campaign spot-light despite a poorer record of labor rights abuses. This presents a dilemma since campaigns that target corporations with some claim to social responsibility (e.g. Gap, Levi Strauss, Liz Claiborne) have been more successful both in engaging the corporation and in changing corporate behavior than campaigns on those corporations denying any broader social mission (e.g. Shell in Nigeria).

4. Corporate Responsibility Vacuum: Since Governments Have Fewer Resources and the UN is a Weakened Institution, Corporate Responsibility Falls More to Actions by the Non-Governmental and Corporate Sector. Yet, Who Will Monitor the New Corporate Agreements?: How do we know if General Motors is telling the truth in its annual environment report submitted to the CERES organization? According to CERES Co-Chair Joan Bavaria, CERES has a "long term goal...to elevate environmental auditing and reporting to the level of accessibility and veracity of financial accounting and reporting;" CERES is open to help in this effort.[36] Likewise, now that several apparel firms have agreed to independent monitoring, who will pay for it? Who will train the monitors? How will this work on a global scale? How will it work in China where the government is fundamentally hostile to the idea?

## IV. The Current Moment

### A. The Explosion of Private Financial Flows:

The current international economic landscape is remarkably fluid and dynamic, and offers both opportunities and obstacles to the corporate accountability movement. The major new dynamic in the world economy in the 1990s has been the explosion of private capital flows around the world, and the slow decline of public or "official" flows from both individual governments and multilateral lenders.

The majority of private finance that crosses borders, like the majority of trade, flows among the leading 25-29 advanced industrial nations. While this is likely to remain the case for the foreseeable future, the most dramatic explosion in private flows has been from private sources in the North to governments and the private sector in the South. World Bank figures suggest that the total value of these flows has grown from $44 billion in 1990 to $244 in 1996:[37]

| | 1990 ($ billion) | 1996 |
|---|---|---|
| Official flows | 56.3 | 40.8 |
| Private flows | 44.4 | 243.8 |
| Foreign Direct Investment | 24.5 | 109.5 |
| Portfolio Equity Flows | 3.2 | 45.7 |
| Bonds | 2.3 | 46.1 |
| Commercial Bank Loans | 3.0 | 34.2 |
| Other | 11.3 | 8.3 |
| TOTAL FLOWS | $ 100.6 | $284.6 |

About half of the 1996 private flows was in the form of foreign direct investment (setting up factories, investing in mines, exploiting new oil reserves) and it raises all of the issues endemic to the corporate accountability movement. (These figures underestimate new corporate activity in one important respect: they do not count the thousands of corporate subcontracting relationships whereby Nike, Reebok, and other firms "produce" products in Southern factories that they do not own.)

The remaining half of the flows involves three streams of more short-term money:

- more diffuse short-term equity instruments such as investments by mutual funds, pension funds and insurance companies;
- Southern governments and firms issuing bonds; and

- a resurgence of lending from Northern commercial banks to the South.

This explosion of funds should add fuel to the corporate accountability movement inasmuch as adverse social and environmental consequences from the flows are likely to increase as China and India build more coal-fired power plants, Indonesia opens more mines, the Mexican border expands the maquiladora zones, and the subcontracting of footwear, apparel, and toys spreads to more countries. Inasmuch as more than 70 percent of the private flows are going to just 10 countries (in 1996, these were China, Indonesia, Mexico, Malaysia, Brazil, Thailand, Argentina, India, Turkey, and Chile)[38], these countries will suffer from a growing array of problems associated with weak environmental infrastructures and the growing inequalities that accompany rapid economic globalization. Work on and with these countries by the corporate accountability movement is likely to increase substantially.

The more difficult challenge facing corporate accountability activists is that a rapidly growing share of the funds is short-term equity instruments, led by the rapid growth of mutual funds, that can leave countries very quickly at the sign of danger. Mexico was devastated by the rapid exodus of tens of billions of short-term investments in December 1994 after a poorly handled devaluation of the peso. In July 1997, a similar financial panic rocked the stock market and currency of Thailand and, as with the Mexican crisis, spread quickly to other countries.[39]

This instability is deepened by the growth of currency speculators around the world who move large quantities of funds quickly amongst currencies. The Economist estimates that $1.3 trillion worth of currencies change hands on global markets every day.[40] Canadian economist John Dillon estimates that the combined daily transactions of currencies, stocks, bonds and commodity futures total some $4 trillion each day, most of them purely speculative transactions.[41] In 1936, John Maynard Keynes wrote that "when the capital development of a country becomes the by-product of the casino, the job is likely to be ill-done." Today, around the world, a small group of speculators are creating Keynes' casino on a global scale as they, in Dillon's words, "grow very wealthy doing nothing more tangible than rearranging zeroes and ones on computer chips."[42] Current regulations offer little defense against the spread of such activity.

These private financial flows are the spearhead of an accelerating economic globalization which now reaches all countries in the world and an increasing number of sectors in those countries. While creating millions of winners, this form of globalization is creating three sets of problems in addition to the environmental problems mentioned above:[43]

- a growing jobs crisis worldwide: 30 percent of the global workforce is unemployed or seriously underemployed, and wages and working conditions are stagnating in many countries;
- growing inequality between the winners from globalization and those left out, hurt, or marginalized by it; and
- the increasing power of mobile global corporations over immobile national governments.

Many of the organizations that have formed the backbone of the corporate accountability movement are increasingly faced with this broader set of globalization problems.

B. The Corporate Accountability Movement in the Age of Globalization

We have arguably entered a third wave of 20th century efforts to create greater accountability for global corporations.[44] The first wave occurred in the 1940s in the proposals to create a global set of rules regarding trade and investment in the Havana Charter of the proposed International Trade Organization (which never came to fruition; instead the more limited General Agreement on Tariffs and Trade was created). The second wave occurred in the 1970s with the negotiations over a UN code, the creation of several regional economic blocs, and the strengthening of many Southern country laws regulating corporate activity. This period was characterized by strong pressure and coordination among Southern governments.

The third wave began in the 1990s in the radically new environment of the post Cold War embrace of free markets and rejection of strong government roles in regulating and steering economies. A broad range of citizen organizations in both North and South has spearheaded this effort. Despite having widely divergent strategic goals and deploying a wide array of instruments, these organizations have faced the same reality. With governments less willing or able to take on the problems of global corporations, NGOs have attempted to create their own growing countervailing power to corporations and new forms of enforcement of new rules that do not depend on governments.

C. New Issues

In addition to the challenges and opportunities raised in the preceding pages, we conclude with some final observations on the next challenges and issues of the corporate accountability movement. As new non-governmental organizations get more involved in corporate work, these are some of the issues they will face:

- Corporate Governance #1: Codes: On codes, we are at an interesting moment. Given the overwhelming consensus among most governments in pursing the free market approach with minimal government intervention, the notion of an inter-governmental United Nations code or other regulatory framework is not a current option. This could change if there are several well-publicized corporate disasters, and activists should look for such openings. Yet, in this climate, growing non-governmental pressure for enforceable corporate codes is spreading. Thus far the momentum is largely in the apparel, footwear, and toys sectors, and the codes focus on sweatshop conditions. How can the lessons learned in these sectors be spread to other sectors and to firms headquartered in other countries? Is there a forum within which discussions of a new inter-governmental code of conduct on transnationals could begin? Could environmental groups, conspicuously absent in the first round of negotiations of the U.N. code, play a more active role this time around?

- Corporate Governance #2: New Corporate Rules: The World Trade Organization, the North American Free Trade Agreement, and the proposed Multilateral Agreement on Investment are all perceived by corporate activists as a new set of global rules that are badly skewed in favor of the corporation. Hence, many organizations are shifting their work to either oppose or attempt to reform these institutions. Burma activists, for example, are about to face a WTO challenge to the new state and municipal resolutions that punish firms operating in Burma. Likewise, in Canada, East Asia and increasingly the United States, strong opposition to the MAI is emerging. (It is ironic that governments have chosen the OECD as the home for the MAI given the existence of the 1976 OECD code on multinationals. However, that set of guidelines lacked any coercive enforcement mechanism and hence has served as little more than a public relations gimmick.)

- Corporate Governance #3: What Role for National Government?: In the White House accord on apparel, the U.S. government demonstrated that it is unsure what role to play in the emerging debates over corporate accountability. Secretary of Labor Robert Reich largely played the role of a cheerleader in the process, encouraging corporations to "do the right thing." Surely, there is a more proactive role that the U.S. government can play in setting a framework and timetable for new checks and balances on increasingly powerful global firms. The precise role that the U.S. government and other home governments should assume needs greater study and dialogue.

- Corporate Rule: In a related development, a number of activists have dubbed growing corporate influence over governments and these new multilateral institutions as "corporate rule" and are shifting campaign work from individual corporations to the issue of corporate control of politics and political institutions. This is a focus of the International Forum on Globalization, which is planning a major conference in November 1997 in Toronto to gather activists around the theme of "challenging corporate rule."

- Corporate Charters: Richard Grossman and his colleagues have made a compelling argument about reopening the historical inquiry into how corporate charters have been steered away from documents that protected the public from corporate abuses. This inquiry deserves far broader participation from a wide range of organizations.

- New Forms of Countervailing Power: Unions and environmental groups have far greater potential power to influence corporations than they currently exercise. Part of this enhanced power lies in their using more creatively their power as investors. Part lies in their forging more creative alliances across sector and across borders. The "new" AFL-CIO has shown an interest in engaging in these new debates, and it has created a new division of corporate affairs to spearhead this work. This discussion on how to strengthen countervailing power deserves to be deepened and spread.

- Short-term financial flows: Some investor activists have, for years, put pressure on pension funds, insurance companies, and mutual funds, to operate in a socially responsible fashion. Their experience and knowledge needs to be shared as these institutions become central actors in the spread of private financial flows around the world. There is a broad policy agenda around these short-term flows; a good starting point is the book by Canadian economist John Dillon entitled Turning the Tide.[45] There is also need for far greater study of the social and environmental impact of these flows on the three largest Southern recipients: China, Indonesia and Mexico.

- North-South: We need better developed fora where U.S. activists working on corporate issues can meet their counterparts in Canada, Europe, and countries in the South. Again, the International Forum on Globalization, with quite limited resources, is opening some space in this regard; they need assistance from others in opening other spaces.

* * *

Notes

1. Robin Broad, a professor of international development at the School of International Service at the American University, is conducting research on socially and environmentally responsible trade and investment under a grant from the John D. and Catherine T. MacArthur Foundation. John Cavanagh is co-director of the Institute for Policy Studies and co-author, with Richard J. Barnet, of Global Dreams: Imperial Corporations and the New World Order (Simon & Schuster, 1994). Broad and Cavanagh are co-authors of Plundering Paradise: The Struggle for the Environment in the Philippines (University of California Press, 1993). The authors would like to thank Joan Bavaria, Harris Gleckman, Bob Massie, David Schorr and Myriam vander Stichele for insightful

comments on an earlier draft of this paper.

2. One interesting survey of corporate accountability work, which offers some criteria for evaluation, is a PhD dissertation by Tamara Bliss entitled: Leveling the Playing Field: How Citizen Advocacy Groups Influence Corporate Behavior (Dissertation submitted to the Fielding Institute, 1996), available from UMI Dissertation Services, 300 N. Zeeb Rd., Ann Arbor, MI 48106.

3. We welcome further suggestions on these criteria.

4. We would like to thank Harris Gleckman for suggestions on an earlier draft of this section.

5. The principal group advancing this agenda is the Program on Corporations, Law and Democracy, co-directed by Richard Grossman and Ward Morehouse. See Richard Grossman, "Corporations, Accountability and Responsibility," paper of the Program on Corporations, Law and Democracy, 211.5 Bradford St., Provincetown, MA 02657.

6. Robin Broad with John Cavanagh, Plundering Paradise: The Struggle for the Environment in the Philippines (Berkeley: University of California Press, 1993), chapter 4.

7. We have argued elsewhere that all of these groups represent a new "third way" response to economic globalization between the dominant "free trade" position of large corporations and most of the Republican and Democratic parties and the nationalist and racist protectionism of Pat Buchanan. (See John Cavanagh and Robin Broad, "Global Reach: Workers Fight the Multinationals," The Nation, March 18, 1996.) Much of the citizen activity is "defensive," attempting to halt the social and environmental disintegration that has come with globalization by one of three strategic goals:

- stopping aspects of globalization: for example, campaigns to stop World Bank dams, to kick Cargill and Kentucky Fried Chicken out of India;
- slowing down aspects of globalization: for example, campaigns to defeat the free trade agreements that accelerate globalization, proposals to tax flows of speculative capital around the globe;
- reshaping the rules of globalization in socially and environmentally responsible ways: for example, campaigns to get the Gap, Liz Claiborne and other groups to agree to end sweatshops and child labor, campaigns to attach labor and environmental rights to trade agreements, the alternative trade movement.

8. The U.S.-based Child Labor Coalition, co-chaired by Pharis

Harvey of the International Labor Rights Fund and Linda Golodner of the National Consumers League, spearheaded this effort.

9. Written comments by Joan Bavaria on an earlier draft of this paper, July 14, 1997.

10. Initial members included 15 major environmental organizations and such powerful investor institutions as the California public pension system and the New York City Employees Retirement System. Coalition for Environmentally Responsible Economies, "Reaching a Critical Mass: A Strategic Plan for CERES," Boston, 1996, p. 9.

11. Coalition for Environmentally Responsible Economies, "Reaching a Critical Mass: A Strategic Plan for CERES," Boston, 1996, p. 14; and Theo Emery, "Boston Coalition Getting Companies to Volunteer to Be Ecologically Sound," Boston Globe, January 14, 1997.

12. Chapter in John Cavanagh, Daphne Wysham, and Marcos Arruda, eds., Beyond Bretton Woods: Alternatives to the Global Economic Order (Pluto, TNI, and IPS, 1994).

13. Women's Environment and Development Organization, "Codes of Conduct for Transnational Corporations: Strategies Toward Democratic Global Governance," WEDO Primer No. 1., 1995, p. 5.

14. Harris Gleckman and Riva Krut, "The Social Benefits of Regulating International Business," A Discussion Paper for the United Nations Research Institute for Social Development, 1994.

15. Richard Grossman & Frank Adams, Taking Care of Business: Citizenship and the Charter of Incorporation (Cambridge, Charter Ink., 1993).

16. For an inventory of consumer boycotts ongoing in the United States at any given movement, see the magazine Co-op America Quarterly's "Boycott Action News."  The list of 57 is from the Fall 1994 issue.

17. Written comments by Joan Bavaria on an earlier draft of this paper, July 14, 1997.

18. Stan Hinden, "Joan Bavaria's Crusade for the Environment," Washington Post, December 23, 1990.

19. UNCTAD,  World Investment Survey 1996 (Geneva: United Nations, 1996), p. 8.  China leads with 45,000 affiliates,

followed by the Philippines, Singapore, Brazil, and Mexico, each with more than 8,000.

20. The secretariat is at the Development GAP, 927 15th St., NW, Washington, D.C. 20005.

21. Harris Gleckman and Riva Krut, "Transnational Corporations, International Regulation and Competition Policy: The Next Arena for International Action," Benchmark Environmental Consulting, 1994.

22. See Multinational Corporations and United States Foreign Policy: Hearings before the Subcommittee on Multinational Corporations of the Senate Committee on Foreign Relations, 94th Congress, 1st Session, 1975, pp. 381-386.

23. For a description of these and other codes, see Lance Compa and Tashia Hinchliffe-Darricarrere, "Enforcing International Labor Rights through Corporate Codes of Conduct," Columbia Journal of Transnational Law, 1995, pp. 663-689.

24. For a detailed analysis, see Diane Orentlicher and Timothy Gelatt, "Public Law, Private Actors: The Impact of Human Rights on Business Investors in China," Northwestern Journal of International Law & Business, Vol. 14, No. 1, Fall 1993.

25. For a detailed analysis, see Orentlicher and Gelatt.

26. Mitchell Zuckoff, "Taking a profit and inflicting a cost," Boston Globe, July 10, 1994.

27. New York Times Magazine, April 2, 1995, p. 18.

28. A "Clean Clothes" newsletter is included in the "News from IRENE (International Restructuring Education Network Europe)," a newsletter available from IRENE at Stationsstraat 39, 5038 Tilburg, The Netherlands.

29. Bethan Brookes and Peter Madden, "The Globe-Trotting Sports Shoe," Christian Aid, December 4, 1995, p. 22.

30. The Safety Charter has been endorsed by: Catholic Institute for International Relations, Trade Union Congress, and World Development Movement, in association with: Asia Monitor Resource Center, Association of the Rights of Industrial Accident Victims, Hong Kong Christian Industrial Committee, Hong Kong Confederation of Trade Unions, and the International Confederation of Free Trade Unions.

31. Bob Ortega, "Conduct Codes Garner Goodwill for Retailers, But Violations Go On," <u>Wall Street Journal</u>, July 3, 1995.

32. One of us debated a representative of the U.S. Council for International Business, an industry association, on National Public Radio's "Talk of the Nation" in the mid-1990s. He was asked which of three approaches was most amenable to his business constituency: labeling efforts such as the "No Sweat" proposal, corporate codes of conduct, or worker rights language in trade agreements. He said that the business community was very open to labeling initiatives inasmuch as they simply involved enhancing the consumer's ability to make informed choices. Voluntary corporate codes were likewise seen as an interesting trend so long as there was no talk of binding enforcement mechanisms. The third approach, that of enforcing labor and environmental standards through trade sanctions, was seen as unacceptable.

33. John Cavanagh, Lance Compa, Allan Ebert, Bill Goold, Kathy Selvaggio & Tim Shorrock, <u>Trade's Hidden Costs: Worker Rights in a Changing World Economy</u> (Washington, D.C.: International Labor Rights Education and Research Fund, 1988).

34. See, for example, the August 1994 "Social Charter for Democratic Development" adopted by the Asian and Pacific Regional Organization of the International Confederation of Free Trade Unions.

35. Martin Khor, "Why GATT and the WTO should not deal with labour standards," Third World Network, April 1994.

36. Written comments by Joan Bavaria on an earlier draft of this paper, July 14, 1997.

37. World Bank, <u>Global Development Finance</u>, Vol I (World Bank, 1997), p. 7.

38. World Bank, <u>Global Development Finance</u>, Vol I (World Bank, 1997), p. 7.

39. The <u>Washington Post</u>'s Paul Blustein described the crisis graphically: "The wave of speculative selling began in recent weeks in Thailand and spread late last week to nearby countries with somewhat similar economic problems - the Philippines, Malaysia, and Indonesia. Like a virus, it then struck the Brazilian stock market and the Polish zloty with tremendous force Tuesday before moving on to hit markets in Singapore, Taiwan and Greece on Wednesday and Thursday." Paul Blustein, "Currency Plunges Alarm Treasury, IMF," <u>Washington Post</u>, July 18, 1997.

40. The Economist, October 7, 1995, p. 10.

41. John Dillon, Turning the Tide: Confronting the Money Traders (Ottawa: Canadian Centre for Policy Alternatives, 1997), p. 2.

42. Dillon, p. 3.

43. See Richard J. Barnet and John Cavanagh, Global Dreams: Imperial Corporations and the New World Order (New York, Simon & Schuster, 1994), and Robin Broad and John Cavanagh, "Don't Neglect the Impoverished South," Foreign Policy, no. 101 (Winter 1995-96).

44. For some of the history of the first two waves, see UNCTAD, World Investment Report 1996 (Geneva: United Nations, 1996), p. 133.

45. John Dillon, Turning the Tide: Confronting the Money Traders (Ottawa: Canadian Centre for Policy Alternatives, 1997).