

The background of the entire page is a grayscale marbled pattern with swirling, organic shapes. In the lower right corner, there is a black silhouette of a person's head and shoulders, facing left and looking upwards. The overall mood is contemplative and mysterious.

## **Behind the mask**

The real face of corporate  
social responsibility

# Contents



**Above:** People from communities living around Coca-Cola's bottling plant in Kerala, India, protesting about the company's use of their ground water.

**Front cover:** A Shell oil spill in Ogoni. Loveday Fomsi looks into a polluted stream, formerly a source of drinking water.

**Front cover photo:** Sophia Evans/NB Pictures

<b>Behind the mask: The real face of CSR</b>	<b>1</b>
<b>Section 1</b>	
<b>Unmasking CSR</b>	<b>4</b>
<b>Section 2</b>	
<b>Sustained misery: Shell in the Niger Delta</b>	<b>22</b>
<b>Hooked on tobacco: BAT in Kenya</b>	<b>34</b>
<b>Living its values: Coca-Cola in India</b>	<b>44</b>
<b>Section 3</b>	
<b>From CSR to corporate social accountability</b>	<b>50</b>
<b>Notes</b>	<b>60</b>

# Behind the mask

## The real face of CSR

‘We have lived so long at the mercy of uncontrolled economic forces, that we have become sceptical about any plan for human emancipation. Such a rational and deliberate reorganisation of our economic life would enable us, out of the increased wealth production, to establish an irreducible minimum standard which might progressively be raised to one of comfort and security.’

Lord Harold Macmillan, UK Prime Minister 1957-63<sup>1</sup>

All day a steady file of people make their way up and down the potholed main road running through Umuechem, going to and from a polluted stream that is now their only source of water. Large trucks thunder by at regular intervals, on their way to and from the oil pumping station on the outskirts of town. For, despite the lack of basic amenities, this is the oil-rich Niger Delta of southern Nigeria.

As well as taps that are dry, this town of 10,000 people also has a hospital that has never treated a patient, a secondary school where no lessons have ever been taught, a post office that has never handled a letter and a women’s centre that has never held a meeting. All were supposed to have been supplied under ‘community development’ schemes, funded from oil money – local wells produce 15,000 barrels a day. But all have failed or remain unfinished.

Four of these projects were ‘generous’ gifts from the Shell Petroleum Development Company of Nigeria – the oil giant’s subsidiary that runs the flow station near Umuechem and is the country’s dominant oil company. The others, including the water system, came from the state-financed Nigeria Delta Development Corporation, which works alongside Shell – to similar effect.

Sadly, this story of failure is not new. In 1990, when the country was under military rule, local young people mounted a protest about the lack of such facilities. Shell called in the police, most of the town was burned to the ground and 80 people were killed. To this day, no one has received a penny in compensation and the basic amenities are still missing.

This is the story of corporate social responsibility – or CSR – writ large. Certainly, it is a story that stands in stark contrast to Shell’s professed commitment to ‘core values of honesty, integrity and respect for people’.

Outside certain areas of business and investment and supporters in the public sector, few people will know much about what CSR is, where it comes from and how it works. If they have ever heard of it, they will probably just think that it sounds like a good thing (which it does, that is part of the point). But this is now a big, and growing, industry, seen as a vital tool in promoting and improving the public image of some of the world’s largest corporations.

In simple terms, companies make loud, public commitments to principles of ethical behaviour and



undertake ‘good works’ in the communities in which they operate. It sounds and looks like a modern version of selfless philanthropy and no doubt in many individual cases is motivated by a genuine wish to help and has led to some benefits. The problem is that companies frequently use such initiatives to defend operations or ways of working which come in for public criticism.

‘We can’t be so bad,’ would go a company’s clichéd CSR-backed response. ‘Look at all the nice things we do.’

CSR, in other words, can become merely a branch of PR. Sometimes this looks like the only reason for spurts of development activity by large companies. Shell, for instance, was at the forefront of CSR in Britain, following the joint public relations disasters of the Nigerian government’s execution of human rights activist Ken Saro-Wiwa and the row over the company’s plan to dump the Brent Spar North Sea oil platform – both in 1995. Certainly for some, such as those living in Umuechem, Shell’s CSR programme has brought no tangible benefits.

Christian Aid, of course, supports responsible and ethical action by business. The problem with CSR, we say, is that it is unable to deliver on its grand promises. The case studies in this report highlight that the corporate world’s commitments to responsible behaviour are not borne out by the experience of many who are supposed to benefit from them. In some cases, the rhetoric and the reality are simply contradictory.

- **Shell** claims that it has turned over a new leaf in Nigeria and strives to be a ‘good neighbour’. Yet it still fails to quickly clean up oil spills that ruin villages and runs ‘community development’ projects that are frequently ineffective and which sometimes divide communities living around oilfields.

- **British American Tobacco** stresses the importance of upholding high standards of health and safety among those working for it, and claims to provide local farmers with the necessary training and protective clothing. But contract farmers in Kenya and Brazil say this does not happen and report chronic ill-health related to tobacco cultivation.

- **Coca-Cola** emphasises ‘using natural resources responsibly’. Yet a wholly owned subsidiary in India is accused of depleting village wells in an area where water is notoriously scarce.

Christian Aid is saying that CSR is a completely inadequate response to the sometimes devastating impact that multinational companies can have in an ever-more globalised world – and that it is actually used to mask that impact. Those who suffer the most as a result are the poor and vulnerable people in developing countries and the environments in which they live.

Business, moreover, has consistently used CSR to block attempts to establish the mandatory international regulation of companies’ activities. Its basic argument is that CSR shows how committed corporations already are to behaving responsibly and that introducing mandatory regulation could destroy this good will. Business leaders are also constantly saying that regulation is bad for their profits – the two statements are, of course, not unconnected.

Modern CSR was born during the 1992 Earth Summit in Rio de Janeiro, when UN-sponsored recommendations on regulation were rejected in favour of a manifesto for voluntary self-regulation put forward by a coalition of companies called the World Business Council for Sustainable Development. Its version of events was endorsed by the US, the UK and other western governments. The British government, for example, is still a vocal supporter of voluntarism.

Such resistance to regulation, this report argues, has left the worst corporate abusers effectively unrestrained, and the victims of their actions without adequate means of redress. Whatever responsible initiatives companies choose to carry out on their own behalf, binding international standards of corporate behaviour must be established to guarantee that the rights of people and the environment in developing countries are properly protected.

‘There are some companies that will only take social responsibility on board if they have to,’ one retail-sector source told us. ‘You’ve got to use regulation to make them.’

This is not pie-in-the-sky wishful thinking. There is already a model of how such regulation could work in moves currently being made to curb bribery. Since 1997, some 35 rich countries of the Organisation for Economic Cooperation and Development (OECD) have signed up to a convention that outlaws the bribery of foreign public officials by business people. This is the first modern example of internationally agreed, legally binding regulation for non-financial reasons.

Britain, after a bit of OECD prodding, has now fulfilled its obligation by enacting new anti-bribery laws. More than 100 UN member states appear likely to take this one stage further and have already signed a UN convention on bribery. These activities have already led business to take a far greater interest in tackling bribery.

Christian Aid is now calling for a similar framework of international regulation, backed up by national legislation, to ensure the enforcement of real social responsibility on the corporate world. Introducing the threat of prosecution and legal action, with resulting detailed disclosure of company documents, would create a powerful incentive for companies to behave responsibly.

At a national level, we want the UK government to:

- adopt new laws to make corporate social and environmental reporting and disclosure mandatory for British companies – including the disclosure of payments to overseas governments, information on the social and environmental impact of overseas operations and details of legal actions against companies
- frame new responsibilities for company directors to give them a ‘duty of care’ for communities and the environment, making them legally accountable for the actions of their companies overseas
- change the law to enable people harmed by British companies’ overseas operations to seek redress in UK courts and to provide the resources to enable them to do so.

The European Union also has a critical role to play internationally, as its member states are home to some of the world’s largest and most influential multinational corporations.

Christian Aid, then, wants to give companies’ ethical commitments ‘teeth’ by underpinning them with binding regulation. We are advocating a move beyond corporate social responsibility to corporate social accountability – meaning that companies in future will have a legal obligation to uphold international standards.

Then and only then, we believe, will the corporate world as a whole be able to live up to its professed commitment to high standards and sustainable development in its dealings with some of the world’s poorest people.

# 1 Unmasking CSR

‘Corporate social responsibility is the continuing commitment by business to behave ethically and contribute to economic development while improving the quality of life of the workforce and their families as well as of the local community and society at large.’

Lord Holme, former executive director of Rio Tinto, and Phil Watts, managing director of Shell<sup>1</sup>

In business, one phrase – corporate social responsibility – has become synonymous with companies’ attempts to appeal to an increasingly demanding world of customers and shareholders. Like flypaper, corporate social responsibility (CSR) has attracted dozens of other pieces of jargon, such as ‘ethical trade’, ‘stakeholder dialogue’ and ‘engagement’; and embraced many fine concepts, such as transparency and accountability.

Within a decade a whole new corporate language, championed by multinational corporations,<sup>2</sup> has evolved around the notion of more ethical business practice. A new industry has grown up to help companies present, implement and monitor what they are doing in the name of CSR.

But behind the fine words, is there substance? Does the new language and the emergence of some specialist consultancy firms reflect real change in business practice? Is there more to CSR than grand allusions to ‘global citizenship’ and ‘interdependence’? Most importantly, as far as Christian Aid is concerned, has CSR delivered tangible, sustainable benefits to poor communities in developing countries, where governments are increasingly desperate for the investment multinational corporations provide?

According to the European Commission, CSR involves companies integrating ‘social and environmental concerns into business operations and in their interaction with stakeholders on a

voluntary basis’. The key to this definition lies in the word ‘voluntary’.

All companies are bound by the laws of the country in which they operate. However, these laws rarely, if ever, bind companies to particular standards of behaviour in their dealings with poor people and poor communities. At the heart of CSR is the idea that companies, on their own, can be trusted to fill this regulatory gap and address any problems their operations may cause. CSR is about companies defining what responsible behaviour is and promising to act accordingly, identifying where they are falling short of the standards they set, and deciding for themselves when they have gone far enough in changing their practice.

The voluntary approach is widely endorsed by European governments. The UK government has appointed Stephen Timms as the minister for CSR within the Department of Trade and Industry (DTI). His view is that the role of governments is to ‘work with the corporate sector to facilitate this type of involvement, rather than looking to regulatory measures or new laws’.<sup>3</sup> In a recent publication, even the UK’s Department for International Development (DFID) says: ‘International legally binding frameworks for multinational companies may divert attention and energy away from encouraging corporate social responsibility and towards legal process.’<sup>4</sup> Business groups and international institutions such as the Organisation for Economic Cooperation and Development (OECD) also support self-regulation.

### Christian Aid's definition of CSR

Christian Aid defines Corporate Social Responsibility – CSR – as an entirely voluntary, corporate-led initiative to promote self-regulation as a substitute for regulation at either national or international level. CSR is a catch-all term increasingly used by business, which encompasses the voluntary codes, principles and initiatives companies adopt in their general desire to confine corporate responsibility to self-regulation. Increasingly, corporate self-regulation in the form of CSR is also being embraced beyond the business world by, among others, governments, and multilateral institutions such as the World Bank and UN.

Christian Aid is, of course, in favour of companies behaving responsibly and is also in favour of them doing so voluntarily, as well as in order to meet regulations. However, business needs to be bound by tighter national laws and regulations held in a framework of agreed international standards. This report is not about responsible or ethical business *per se*. Rather, it is about the inadequacies of CSR.

The report shows that corporate enthusiasm for CSR is not driven primarily by a desire to improve the lot of the communities in which companies work. Rather, companies are concerned with their own reputations, with the potential damage of public campaigns directed against them, and overwhelmingly, with the desire – and the imperative – to secure ever-greater profits. None of this necessarily means that companies cannot act responsibly. But it does mean that their attempts to do so are likely to be partial, short-term and patchy – leaving vulnerable poor communities at risk.

But developing-country governments seem less convinced that the voluntary approach will benefit them. A group of governments from developing countries recently proposed that the World Trade Organisation, as part of its investment discussions, examine how companies might be regulated internationally.<sup>5</sup>

While there are some companies that act responsibly much of the time, and many companies that act responsibly some of the time, the CSR landscape is uneven and full of potholes. Christian Aid has seen too much evidence of the damage that companies can do in poor communities to endorse a purely voluntary approach. It is Christian Aid's view that safeguarding the social and environmental rights of poor people as they come into contact with multinational corporations cannot be left solely to the discretion of those corporations.

As Christian Aid's trade campaign has already made clear, legally binding and internationally agreed regulations for business are needed to protect the rights of poor communities. Adherence to internationally agreed standards must also be included as a pre-condition for the commencement of commercial projects that require loans from international financial institutions or other publicly funded bodies, such as export credit agencies and government banks.

Time and again flaws in self-regulation appear in the gap between the claims of company CSR policies and the reality of poor communities affected by corporate actions. Christian Aid has, in recent years, produced three major reports documenting what can happen in the absence of regulation:

- In March 2001, *The Scorched Earth: Oil and War in Sudan* described the human rights abuses of

the Sudanese government and allied militia, with the complicity of oil companies, in and around the oilfields of southern Sudan.

- In January 2002, *Hooked on Tobacco* raised serious concerns about the health, safety and livelihoods of contracted farmers growing tobacco for a subsidiary of British American Tobacco in southern Brazil.
- In May 2003, *Fuelling Poverty: Oil, War and Corruption* examined the curse of oil on poor communities in resource-rich developing countries. Christian Aid called for the payments of oil companies to governments to be made more transparent and for better laws governing companies' activities overseas.

This report follows up that work and documents the activities of three multinational corporations that have made much of their CSR activities – Coca-Cola, British American Tobacco and Shell. It measures the commitment they have made to more responsible corporate behaviour against their impact on poor communities in three specific instances. It finds that their actions do not, in these cases, match their words on CSR.

It also finds that the constraints on responsible behaviour are at least as great as the incentives to improve corporate social and environmental practice. Even companies that have made responsible practice their stock in trade are subject to such constraints. The Body Shop's Anita Roddick discovered as much when her company, shortly after stock market floatation, built a soap factory in one of the poorest parts of Glasgow and pledged 25 per cent of the profits to the community. 'The financial analysts didn't really like us too much,' she said recently. 'They accused us of stealing the profits from shareholders.'

### **Where does CSR come from?**

While the subject of business ethics has a long history, CSR has become a distinctive topic more

recently. During the 1980s, the United Nations grappled with the international Code of Conduct on Transnational (multinational) Corporations, covering areas such as labour standards, consumers' rights, women's rights, the environment, corruption and restrictive business practices.<sup>6</sup> The code was never approved, largely because of US government and corporate opposition to its scope and legal status.

Modern CSR was born during the 1992 Earth Summit in Rio de Janeiro, as an explicit endorsement of voluntary approaches rather than mandatory regulation. The UN Centre on Transnational Corporations was charged with researching the regulation of business and coming up with regulatory proposals. It produced a set of recommendations on corporate regulation for the Earth Summit's action plan. But these were rejected after western states and businesses lobbied in favour of a manifesto for voluntarism drafted by the World Business Council for Sustainable Development, a coalition of companies 'united by a shared commitment to sustainable development'.<sup>7</sup>

In the UK, CSR started to feature on the public agenda in the 1990s, when people began expecting corporations to act in a far more ethical way. Key events such as Shell's handling of the Brent Spar oil platform incident in 1995 and the Nigerian military government's execution of Ken Saro-Wiwa, a vociferous opponent of oil exploitation in Nigeria, marked a sea change in the British public's attitude towards corporate behaviour. This change helped launch the UK social investment movement.

In May 1996, six months on from Saro-Wiwa's execution, suffering a falling share price and haemorrhaging staff, Shell decided on an urgent change of direction. The company employed Shandwick, one of the world's largest PR firms, to repair both its public image and its ability to lobby effectively. In July 1996, Shell took on four new in-house senior PR executives, and three months later awarded Shandwick Interactive a contract to



### **The complex spectrum of corporate accountability**

This report argues that companies should be held legally accountable for their performance measured against human rights<sup>9</sup> and environmental standards. Though there is currently an absence of legislation in this area, companies do have some existing legal responsibilities, particularly at national level.

#### **National legislation**

Multinationals are primarily governed by the national legislation of the countries in which they operate. Unless they have been offered exemptions from national legislation as an incentive to invest, they have equivalent status to domestic companies. However, national legislation in developing countries is often weak. Many lack an acceptable legal framework to adequately protect social and environmental rights. Where the necessary laws do exist, many host countries do not have the political will or technical know-how to enforce them.

In contrast, the regulation of multinationals in their 'home' countries is often strong. In the UK, companies are bound by laws protecting labour rights, the environment and consumers. But these only extend to the activities of companies based or operating in the UK, and not to the overseas activities of UK companies. When operating overseas, often via subsidiaries, UK companies are mainly accountable under UK law for their financial performance. Legislation governing their human rights and environmental performance is limited to highly specific measures, such as the OECD convention on combating bribery, which makes it a crime under UK law to bribe foreign officials (see section 3). Thus, it is extremely difficult to use UK law to hold a UK-based multinational accountable for alleged violations committed outside its own national boundaries. The same is true of most wealthy countries, where the majority of multinationals are based.

However, the US Alien Torts Claims Act (ATCA) has been used with some success to hold US companies to account for their activities overseas. It gives district courts in the US the power to hear foreign citizens' claims for injuries 'in violation of the law of nations'. Although cases under ATCA have proved extremely time-consuming, costly and complex, its use against multinationals has increased considerably over the past decade.

#### **International legislation**

International law has almost exclusively concerned itself with the responsibilities of governments, leaving national law to govern the activities of companies. This has led to confusion as to what the precise obligations and responsibilities of multinationals are. Ideally, an international legal framework or convention is needed to regulate the global activities of multinationals and to help bolster legislation at national level.

develop the [www.shell.com](http://www.shell.com) website.<sup>9</sup> All this led to Shell's cornerstone creation, the *Statement of General Business Principles*, which was adopted in March 1997.

Shell also actively sought an audience with international non-governmental organisations (NGOs) – including those that had accused the company of failing to meet its human rights and environmental responsibilities in Nigeria.

This led to constructive ‘dialogues’ with some of these NGOs and a refinement of Shell’s thinking and policies that drew on NGOs’ development and human rights expertise.

Other companies swiftly followed Shell’s lead, and a new industry grew up to support their efforts. The city is now awash with PR consultants, social auditors, firms providing verification or ‘assurance’ for companies’ social and environmental reports, and bespoke investment analysts all vying for business.

The world of academia has also seen CSR’s potential. Almost a third of MBAs in Europe now offer CSR modules and 12 per cent have dedicated CSR programmes.<sup>10</sup> The International Centre for Corporate Social Responsibility at Nottingham

University, which teaches MAs and MBAs in CSR, is itself the beneficiary of a CSR initiative. The school was launched in 2001 with a grant of £3.8 million from British American Tobacco.

This ever-growing focus on social responsibility in business is to be welcomed. But Christian Aid has found that there is an important distinction between this burgeoning industry and the delivery of tangible benefits to communities in developing countries, whose lives are still, in too many cases, damaged by the activities of multinational corporations. The World Bank, itself a CSR player, notes: ‘Despite widespread rhetoric, impact is still patchy; in practice, many companies’ implementation [of CSR strategies] is shallow and fragmented.’<sup>11</sup>

#### **Why launch this report now?**

*‘In most cases, factors other than the given voluntary approach seem to explain the major part of any environmental improvement that has taken place.’*

OECD review of voluntary environmental initiatives in OECD countries<sup>12</sup>

For as long as they have existed, companies have faced the difficulty of reconciling the need for profit with wider social concerns and environmental protection. However, this paradox has gone global in the past 30 years, with the growing influence of multinational corporations on the world stage. This is a reflection of the changing nature of international trade, the increased mobility of capital and the relaxation of regulation.

Increasingly, corporations’ headquarters are located in one country, where they are registered, with sourcing or production networks linking them to subsidiaries in another country or countries, while they have share listings on several stock exchanges. They can move money around within the corporation, relocate their headquarters and subsidiaries in response to changing legal and social environments, and play one government off against another to obtain more favourable tax and regulatory treatment.

There has been a huge rise in the number of multinational corporations in both developing and developed countries. In 1970 there were 7,000, while in 2003 there were an estimated 63,000 parent companies operating with around 69,000 subsidiaries in almost all sectors, countries and industries in the world.<sup>13</sup>

This has led to a steady rise in foreign direct investment (FDI), partly because of liberal policies towards multinationals. In 2000, global FDI exceeded US\$1.3 trillion,<sup>14</sup> an increase of 14 per cent on the previous year. Increasing FDI also reflects companies’ growing tendency to

**What drives CSR?**

There are sound economic reasons for companies to promote CSR, which create an incentive to report CSR ‘successes’ that often overtake genuine change and tangible improvement. Examining some of the factors driving companies to make socially and environmentally responsible promises helps explain the growth in CSR over the last few years, but also illustrates the limitations of the voluntary approach.

**1. Defending public image**

*‘If companies behave improperly, they can be got at through the court of international public opinion.’*

Sir Mark Moody Stuart, the former Chairman of Shell who masterminded the company’s move towards CSR in the late 1990s<sup>15</sup>

The first CSR initiatives were a response to public pressure and media exposés of poor company behaviour. CSR was supposed to show that companies were capable of cleaning up their act. Professor Michael Porter of the Harvard Business School argues that CSR ‘is all defensive effort, a PR game in which companies primarily react to deal with the critics and the pressure from activists’.<sup>16</sup>

Consumer pressure on companies continues to grow. A survey by MORI in 2002 found that 80 per cent of people thought ‘large companies have a moral responsibility to society’.<sup>17</sup> Recent research, also by MORI, indicates that there has been a significant increase in the number of people who regard social responsibility in corporate behaviour as ‘very important’, from 28 per cent in 1998 to

relocate parts of their production process to developing countries, which offer cheaper labour costs. Companies have also moved between countries in response to changing tariff regimes to gain cheaper access to their major markets. Total FDI in developing countries has been rising since the mid-1980s, from an average of US\$20 billion annually to US\$93 billion by the mid-1990s, and US\$149 billion in 1997. By 2000 this figure had reached almost US\$300 billion – the majority going to a handful of rapidly growing economies, such as China.<sup>18</sup>

Multinational corporations can bring many benefits to developing countries. They can generate foreign revenue, provide employment and give local enterprises the benefit of their expertise, technology and management know-how. According to many corporations’ public statements, they can also contribute to sustainable development, and raise social and environmental standards. But despite their size, growing influence and importance, the presence of multinationals does not guarantee a better standard of living for people in the communities in which they operate, or the alleviation of poverty.<sup>19</sup>

Indeed, many multinationals, as this report shows, find themselves at the centre of some of the world’s most troublesome regions, and their activities can exacerbate the troubles. Some multinationals, especially those involved in extracting natural resources, stand accused of threatening livelihoods and cultures, increasing pollution and pesticide poisoning and lending legitimacy to repressive regimes and dictatorships.

Increased competition between developing-country governments desperate to attract multinationals by giving foreign investment the ‘best deal’ further exacerbates these problems. Many countries now offer incentives to foreign affiliates, such as tax breaks, 100 per cent repatriation of profits and even, in export-processing zones, exemption from some national laws, including those governing particular employment practices.

### **Selling social responsibility: CSR and marketing**

That social responsibility is a saleable concept is nothing new. Anita Roddick launched the Body Shop in 1976 as a retail outlet selling cosmetics that had not been tested on animals, using natural ingredients sourced from around the world. In 1986, the Body Shop began running campaigns that involved its customers, including a 'Save the Whales' campaign, run jointly with Greenpeace. Other businesses, such as the Co-operative Bank and companies selling Fairtrade products, have based their very existence on core social and environmental principles.

A further group of companies has used marketing to associate itself with socially responsible practice, ethical behaviour or good causes in a way that is unrelated to their core business. The best-known example of this is the Italian clothing company Benetton, which has run several expensive advertising campaigns based on social issues. The most recent, called 'Food for Life', was run in partnership with the World Food Programme (WFP) and depicted people from poor countries whose lives had been affected by hunger, war and disease.

'We chose to work with WFP because we share their commitment and their tangible initiatives. We are supporting them, just as we have supported other humanitarian organisations in the past, with a campaign in which we believe absolutely because it encompasses a number of social issues – war, disease, marginalisation – which we have already addressed in our previous communication projects,' said Luciano Benetton, when the campaign was launched.<sup>20</sup>

The company's critics do not share the Benetton family's view of their partnerships with humanitarian organisations. 'Benetton's steady growth as a casual and sportswear giant – 7,000 shops worldwide and a total turnover of US\$2 billion – is based on the "scientific" application of a subcontracting system [which can obscure whether the company is liable for the actions of its supply chain] along with the use of emotional advertising messages associated with simplified social issues, which has given it an undeserved name as a "socially committed" company,' says the Netherlands-based and European Commission-supported Clean Clothes Campaign.<sup>21</sup>

A third group of businesses, whose commercial activity is seen by many as fundamentally harmful or ethically problematic, has also tried to harness more responsible images in order to head off potential problems from consumers or governments. It includes tobacco companies and businesses whose products have a high environmental cost, such as oil companies. More recently, businesses producing food that is high in fat, salt or sugar and associated with dietary problems have been added to the list. For this group of businesses, CSR has been used as a strategy to mitigate against the declining reputation of their products.

46 per cent in 2001. Moreover, as many as one-fifth of the UK population now say they boycott or select goods on social grounds.<sup>22</sup>

Consumer pressure, while crucially important in some instances, is inevitably limited in what it can achieve. It is constrained and defined by the information consumers receive, which tends to come either from corporations themselves or from



anti-corporate campaigns. Although there are now publications, such as *Ethical Consumer*, that seek to help customers make ethical purchases, and ethical pensions and stock portfolios that allow people to invest in socially responsible businesses, the information consumers receive is piecemeal. In addition, some companies, such as those with a high-street presence, will always be subject to greater consumer pressure than companies with a lower public profile.

## 2. Attracting investors

*'Companies that proactively engage with the sustainable development agenda and its advocates in the investment world should generate support, interest and understanding among investors. This will ultimately ascribe a premium to their share price.'*  
Mike Tyrell, HSBC<sup>23</sup>

CSR makes companies attractive to both mainstream investors and to the fast-growing ethical-investment sector. Eighty-six per cent of investors now believe that social and environmental risk-management improves a company's market value in the long term.<sup>24</sup> Sound environmental and social practices limit the likelihood of litigation – more common in industrialised countries – or PR disasters that might jeopardize a company's share value.

The expansion of ethical investment funds demonstrates the direction of consumer opinion. Socially responsible investing (SRI) is one of the fastest-growing sectors of European and global markets. There are an estimated 300 fund managers and analysts in Europe running approximately €10 billion worth of socially and environmentally screened SRI funds.<sup>25</sup> The total value of SRI assets in the UK increased from £23 billion in 1997 to £225 billion in 2001 – a growth of more than £200 billion in four years.<sup>26</sup>

This development – and the growing public concern about company behaviour that it reflects – is to be welcomed. However, the investment decisions of

SRI fund managers depend largely on information in companies' own social and environmental reports and the degree to which those reports meet the plethora of CSR codes and standards. While 80 per cent of FTSE100 companies now publish environmental and sometimes social reports,<sup>27</sup> the quality of their own reporting varies widely.

Both the FTSE in the UK and the Dow Jones in the US have responded to SRI by launching socially responsible company listings or indices.

FTSE4Good is based on social and environmental screening and excludes the tobacco, nuclear power and arms industries. Its indices 'have been designed to measure the performance of companies that meet globally recognised corporate responsibility standards, and to facilitate investment in those companies.'<sup>28</sup>

Dow Jones Sustainability has no exclusions but is based on a 'best in class' rationale, with benchmarks for investment set sector-by-sector, and performance judged according to the quality of social and environmental reporting. However, confusion reigns. Some companies that do not publish environmental or social reports, but may do little harm, are excluded, while others are included because they report, even though their impact on the environments and communities in which they work may be profoundly negative. The criteria used to judge companies' ethical performance remain fragmented and unverified, so the impact of basing investment decisions on them is limited.

## 3. Making good PR

It would be naïve not to question whether companies sometimes use CSR to focus the attention of consumers and shareholders on examples of good practice and away from examples of poor practice. It is no coincidence that companies in some of the more controversial sectors – oil, mining, tobacco – have all been quick to champion CSR.

### **Sustainable smokescreen: tobacco and SRI**

In July 2002, British American Tobacco (BAT) published its first social report. The document was externally verified to AA1000 framework<sup>29</sup> standard to meet the demands of voluntary codes of conduct, including the Global Reporting Initiative (GRI).<sup>30</sup> BAT's second social report for 2002/03 has since been published and has won the Association of Chartered Certified Accountants' award for best first-time report in the social-reporting category.<sup>31</sup>

BAT has championed the cause of CSR, embarking on 'stakeholder dialogues' presided over, for the 2001/02 report, by Durham Ethics, a company run by the Rev Dr David Jenkins, former Bishop of Durham. MORI conducted the dialogue exercise in 2002/03.

But research by Jeff Collin and Anna Gilmore of the London School of Hygiene and Tropical Medicine casts doubt over the quality of the first BAT social report and accuses the company, along with others in the tobacco industry, of using CSR to obfuscate the tobacco-control debate.<sup>32</sup>

'If corporate social responsibility did not already exist then British American Tobacco would have had to invent it,' says Collin. 'It's what BAT and the industry needs in order to rehabilitate itself to make itself acceptable to investors and governments and to resist more regulation.'<sup>33</sup>

According to Collin and Gilmore: 'The exercise [BAT's social report] failed to engage seriously with the fundamental social and health impacts of BAT's global operations or to properly assess core features of the company's business practices.' Their paper is also critical of the stakeholder dialogue process. 'The report does not list those invited to the stakeholder meetings, meetings were conducted under Chatham House rules in which participants are unable to reveal discussions to outsiders and accounts of the meetings have not been made public.'<sup>34</sup>

Another weakness of the 2001/02 social report, according to BAT's critics, was the lack of NGO and campaigning-group participation in the stakeholder dialogue.<sup>35</sup> A report by UK campaigning group Action on Smoking and Health (ASH) highlights how it was approached to take part. It declined because: 'We [ASH] cannot see any outcome that would benefit the public-health agenda; we see no evidence of good faith or candour on BAT's behalf; and the process was badly managed.'<sup>36</sup>

Nevertheless, it is the perceived strength of BAT's social reporting that has already won the company a place in Dow Jones' sustainability indices. And since BAT is currently the only tobacco company to produce a social report, it is currently 'best in class'.

Will Oulton, who advises FTSE4Good on SRI, believes tobacco companies are unlikely to be listed in FTSE4Good indices. 'All exclusions [from FTSE4Good] will be reviewed at some point,' he said. 'We are going through a prioritisation process and tobacco is currently at the end of that line. But even if we were to remove that exclusion today, we would be likely to set the bar so high that tobacco companies would be unlikely to be able to comply anyway.'<sup>37</sup>

The line between CSR and defensive PR can be a very blurred one. In February 2003, the *Guardian* newspaper reported on a conference hosted by the Department of Trade and Industry and attended by an organisation called the Corporate Responsibility Group (CRG). CRG says it is composed of 61 of the UK's leading companies, all of which are committed to adopting a social, ethical and environmentally responsible approach to business practice.

However, the *Guardian* reported that CRG shares an office, telephone number and email address with a PR agency called Grayling. Grayling's website boasts that it has 'maintained sales of a leading medical product under constant political and regulatory threat', and that it has blocked 'restrictive forms of consumer protection'.<sup>38</sup>

This contradiction can be as common in companies' home countries as in their more political or environmentally sensitive host countries. For instance, a record of the fines levied by the UK Environment Agency in its 2003 annual report shows that some of the companies that appear most committed to CSR continue to be found in breach of UK environmental law. For instance, the report includes details of fines for BP and Tesco of £60,000 and £10,000 respectively for allowing underground fuel tanks to leak into ground water.

Commenting on the report, Barbara Young, chief executive of the Environment Agency, said: 'It seems extraordinary that multi-million pound businesses are still prepared to risk their reputations with careless and avoidable neglect of environmental responsibility.'<sup>39</sup>

#### 4. Engaging with campaigners

As the corporate love affair with CSR gathered pace in the mid-1990s, various campaigners, mostly belonging to NGOs decided to test out its potential to bring poor communities tangible benefits. NGOs began lobbying multinationals, combining high-profile media exposure with shareholder and

consumer action over a variety of unethical corporate practices in developing countries. These ranged from child labour and baby-milk promotion to pesticide poisoning and unfair prices for poor farmers. CSR was a direct response to NGOs' campaigns and to the public sympathy they generated.

It is no coincidence that CSR emerged at a time when 'consultation with civil society' had become extremely fashionable among western governments and international donors. In 1997, Labour embraced the principles of 'open government' and 'engagement with civil society' like no previous UK government. It also actively encouraged company executives, such as John Browne of BP, to adopt similar consultative approaches with a broad range of stakeholders.

It was in this context that many established UK NGOs entered into talks with companies that appeared to demonstrate a genuine commitment to responsible practices that went beyond shallow PR. For example, Christian Aid, along with other NGOs, took part in talks between 1997 and 1999 with BP over its operations in Colombia, after concerns had been raised about the deterioration of human rights in the region where the company was operating. Talks also took place with Shell, in response to criticism of its operation in Nigeria, and with a number of other companies.

The dialogue with BP yielded significant results, at least during the period of most intense NGO engagement. Though wise to the danger that BP was merely trying to spruce up its image in the face of adverse publicity, NGOs had decided to talk to the company because they felt it had a genuine desire, for valid business reasons, to avoid becoming a warring party in Colombia's conflict.

As the dialogue unfolded, BP developed a sophisticated understanding of human rights. For instance, British and Colombian NGOs persuaded

the company to press for the resolution of cases of human rights abuse in Colombia, in which the company had been accused of complicity, and to condemn publicly major human rights violations that occurred in the country at large. As one of the largest single investors in Colombia, BP's public statements had significant impact.

But the BP negotiations also demonstrated that NGOs lack the resources to maintain the level of lobbying, monitoring and scrutiny required to have a sustained impact on a multinational's operations. Trying to ensure that standards agreed to on paper at company headquarters are adhered to on the ground is a tall order for under-resourced NGOs.

With the benefit of hindsight, it is clear that, along with PR companies and consultants, NGOs were a significant force behind the CSR explosion in the 1990s. As such, they helped some corporations make professional and legitimate corporate social, environmental and human rights policies. But in the process, NGOs may have unwittingly enhanced company images and market profiles, despite their efforts to avoid public association with the companies concerned.

Contributing to a socially responsible corporate image may not have mattered if NGO negotiation had helped to secure lasting benefits for poor communities in the process. But the case study of Shell in this report indicates that such an impact is difficult to sustain. While recognising that NGO pressure can influence multinationals' policy and practice in certain instances, it is clear that it cannot, by itself, ensure that multinationals uphold environmental and human rights standards. In the long run, international NGOs may be more effective by throwing their collective weight behind the drive for international regulation than by tying up their scant resources in bilateral dialogues.

## 5. Permission to operate

CSR has, of late, become a vital component in

companies' efforts to gain approval for projects carrying significant political and social risks. BP, for example, has been involved in a number of politically sensitive projects, prompting the Dow Jones Sustainability Index to comment: 'In the light of BP's expansion into regions with high political risk, performance on its business principles [CSR strategy] will be essential to maintain the license to operate.'<sup>40</sup>

As people become more aware of the human costs of extracting natural resources,<sup>41</sup> oil companies such as BP (and many other companies in extractive industries), fear that they will lose their access to politically sensitive or volatile countries unless they convince governments and shareholders that they can act responsibly. This has undoubtedly led to better practice. For instance, the recently inaugurated Chad-Cameroon pipeline project only went ahead after NGOs and the World Bank insisted that a multi-stakeholder advisory group monitor Chad's government expenditure.

Other big investment projects, especially involving oil, have only been initiated after extensive public-consultation programmes.

On 4 November 2003, the World Bank's International Finance Corporation (IFC) approved lending of up to US\$250 million for a new oil pipeline running from the Caspian Sea, via Azerbaijan, Georgia and Turkey, to the Mediterranean. Known as the Baku-Tbilisi-Ceyhan (BTC) pipeline, the project will cost US\$3.6 billion and will bring Caspian oil to western markets.

Shareholders in BTC Consortium's (BTC Co) companies approved US\$800 million in credit, US\$500 million from BP,<sup>42</sup> in anticipation of the IFC's approval, demonstrating that World Bank backing is critical to risk-laden projects such as BTC. The pipeline will be more than 1,000 miles in length and, as one recent report notes, 'will pass through several environmentally sensitive protected



areas home to globally threatened species. It will pass near seven areas of ethnic conflict, and traverse an economically valuable natural spring that is the source of a popular bottled mineral water as well as health spas.<sup>143</sup>

Even while the World Bank's private finance arm was deliberating over whether to support the project, BP and its consortium counterparts were facing criticism. BTC Co – reportedly under political pressure from Georgia's president Eduard Shevardnadze, recently ousted in a bloodless revolution – chose a route for the pipeline ranked last in a list of alternatives considered by the Commission for Environmental Impact Assessment.<sup>44</sup>

In the face of vociferous campaigning about the damage the pipeline may cause, both BTC Co and the World Bank are relying on voluntary social responsibility measures to convince stakeholders of the efficacy of the project. BTC Co says it has consulted 450 communities and 30,000 landowners along its planned route. 'Wherever possible, we've sought to avoid villages and areas of environmental sensitivity. We've taken enormous care to make sure we've not disadvantaged anyone,' BTC Co spokeswoman Clare Bebbington said.

## 6. Lobbying against regulation

*'One of the key functions of CSR is to enable further deregulation by pointing to the involvement of business in ethical and sustainable activities and to indicate that "multi-stakeholder dialogue" with civil society obviates the need for binding regulation.'*

David Miller, Stirling Media Research Institute

Christian Aid believes that companies' voluntary measures can help improve private-sector behaviour. But voluntary activity is no substitute for regulation and there is evidence that companies that espouse voluntary approaches to meeting social and environmental standards are also involved in resisting external regulation, especially by governments.

Through lobby groups and the judicious use of highly sophisticated PR firms, some multinationals have consistently opposed the enacting of new laws governing their behaviour. Recent UN attempts to develop a set of internationally agreed human rights standards for corporations (see page 20) provoked a hostile response from business associations that claimed such efforts hampered attempts to develop voluntary measures.

Business groups have also pressured governments to relax existing legislation. Attempts to use the US Alien Tort Claims Act (ATCA)<sup>45</sup> by those claiming to be victims of corporate human rights and environmental abuses overseas have been met with increasing resistance from the corporate world. For instance, Ken Saro-Wiwa's son has filed a claim under ATCA alleging Shell's complicity in human rights abuses in Nigeria. Shell denies the claims and has fought, so far unsuccessfully, to have the case dismissed.

Shell's chief executive Sir Philip Watts is currently the chair of the UK branch of the International Chamber of Commerce (ICC-UK). ICC-UK has been accused of lobbying against ATCA. In its 2002 annual report, which carries an introduction by Sir Philip, ICC-UK describes its efforts to put pressure on the UK government by lobbying against ATCA, as part of a concerted international effort by the ICC. 'We also lobbied ministers on issues of importance to international business. We have more recently been very concerned about the US Alien Tort Claims Act 1789. We consider that the way that this Act is now being used is an unacceptable extra-territorial extension of the jurisdiction of United States law,'<sup>46</sup> says the report.

## What has CSR ever done for us?

While there are many problems with CSR – and in particular with its voluntary nature – there have also been some notable achievements. CSR has led to developments in company reporting, and in the elaboration of good principles and good practice in company behaviour.

## 1. Reporting

*'The pioneers of environmental reporting – companies like BA, BT, British Gas and BP – are seeing increasing benefits from both improved efficiencies and public image as a result. This is something that all companies should be doing. I am issuing a challenge today, to all top 350 companies to be publishing annual environmental reports by the end of 2001.'*<sup>47</sup>

Prime Minister Tony Blair in a speech to the CBI/Green Alliance Conference, 24 October 2000

While Tony Blair's challenge is far from being met, 80 per cent of companies in the FTSE100 now issue CSR reports. The quality of these reports is highly variable, and only a minority include independent verification of their claims. This has made it difficult to compare companies on the basis of CSR performance. When Business in the Community tried to establish a 'Corporate Responsibility Index', using companies' own reports, it concluded, after much criticism: 'The difficulty of finding like-for-like information was identified, making it difficult to compare across sectors – and even within sectors. This was especially true for social [as opposed to environmental] impact areas.'<sup>48</sup>

Universal criteria have been established in an effort to overcome the problems of variable reporting standards. The Global Reporting Initiative (GRI) – established in 1997 by the UN Environment Program and the Coalition for Environmentally Responsible Economies – is an attempt to provide a set of globally applicable guidelines for reporting on social, environmental and economic performance. The GRI is a work in progress, which has received significant buy-in from corporations, NGOs and other stakeholders. Nonetheless, comparability across sectors and geographic regions remains problematic. The GRI has yet to be fully developed, let alone implemented, but a sizable percentage of the world's 100 largest companies made some mention of GRI standards in their CSR reporting.<sup>49</sup>

## 2. Principles and practice of CSR

*'The Global Compact relies on public accountability, transparency and the enlightened self-interest of companies, labour and civil society to initiate and share substantive action in pursuing the principles upon which [it] is based.'*

Kofi Annan, UN's Secretary General

The growth of CSR has inevitably led to the development of a number of principles to guide companies in their CSR commitments. Beyond the plethora of guidelines produced by individual companies, attempts to draw up a framework involving different stakeholders and standardised across different sectors have helped establish criteria to judge company activity. The best of these initiatives have led to some improvements on the ground, while others have had almost no impact. Among the latter is the UN's Global Compact.

The process of winning approval from, or becoming a participant in, the Global Compact is not a complex one. Businesses are required to write a letter on behalf of the board committing the company to adhere to nine guiding principles covering human rights, labour standards and the environment. Participating companies are also required to refer to the Global Compact in speeches and press releases, and use their annual reports to show how they are meeting the nine principles. In 2003, a new 'strategic approach' to the way in which participating companies are required to report back to the UN was introduced. It requires them to write an annual 'communication on progress'.<sup>50</sup>

The Global Compact's nine guiding principles are brief, uncontroversial statements similar to many declarations of human rights and environmental standards. But the Global Compact has run into difficulties because of its voluntary nature and because there is no effective way to monitor whether its principles are being adhered to.

It was originally envisaged that NGOs would play a key role as members. But they became disillusioned and criticised the Global Compact's lack of transparency when it failed to publish a list of participating companies. This criticism intensified when a list of businesses was eventually published and it became clear that there were no exclusions, no caveats and no conditions on becoming a member. An initiative that goes slightly further in attempting to monitor companies' performance and offer some sanctions for non-compliance is the OECD's Guidelines for Multinational Enterprises. Although

voluntary, the OECD guidelines, which were first established in 1976, have the advantage of being promoted by governments. So although companies are responsible for ensuring that they themselves comply, governments are required to resolve complaints about companies alleged to have breached the guidelines. In several countries, including Canada, Holland and Sweden, governments have demonstrated a willingness to resolve specific complaints, although few have been resolved satisfactorily.<sup>51</sup>

#### **OECD guidelines: mining in the Democratic Republic of Congo**

**Jeremy Corbyn:** *To ask the Secretary of State for Trade and Industry what investigations have been undertaken by officials of [Patricia Hewitt's] department into the production methods of minerals imported from the Democratic Republic of Congo.*

**Mr Mike O'Brien (Trade Minister):** *None.*<sup>52</sup>

The war in the Democratic Republic of Congo (DRC) has been one of the bloodiest in history. Millions of people have been killed either directly by the fighting or by the resulting starvation and disease. Millions more have been forced to leave their homes, with many children separated from their families and thousands orphaned by AIDS. The DRC possesses huge deposits of gold, diamond, oil, timber and coltan – wealth that political and military leaders have ruthlessly exploited for personal gain. It is, it seems, another of those countries cursed by its natural resource wealth.

As the DRC conflict ground on, international concern became increasingly focused on the apparent fact that the country's numerous warring parties were engaged as much in mining and logging as in fighting the war. In June 2000, the UN Security Council asked the organisation's Secretary General to establish a panel of experts 'to research and analyse the links between the exploitation of the natural resources and other forms of wealth in the Democratic Republic of the Congo and the continuation of the conflict'.

The expert panel documented the illegal exploitation of the DRC's vast resource wealth behind the veil of conflict, reporting that the looting began with stockpiles of minerals and timber, and then spread to further extraction. According to the panel, the resources were trucked or flown to Uganda, Rwanda or Burundi and then re-exported in quantities far exceeding the normal capacity of those countries.

More than three years since its inception, after three reports to the Security Council, the UN panel has now completed its mandated task, made its recommendations and been disbanded.

continued over page

But it has left in its wake a list of companies from OECD countries that, in the panel's view, breached the OECD guidelines by benefiting indirectly from the illegal extraction of the DRC's resources. Such breaches included the purchase of minerals and timber and the contracting of financial or transport services to parties involved more directly.

In an annex to their reports, the panel listed 85 companies from OECD countries that it said had breached the OECD guidelines. A resulting 2003 Security Council resolution – 1457 – urged 'all states... to conduct their own investigations, including as appropriate through judicial means, in order to clarify credibly the findings of the panel'.

Of the 85 companies named, 40 have now been placed in a 'resolved: no further action required' category after providing the UN expert panel with a satisfactory explanation, but dossiers on 11 have been referred to OECD national contact points (NCPs) in Belgium, Germany and the UK for further investigation.

The UK's NCP has received dossiers from the expert panel on four UK companies: Avient, Das Air, De Beers and Oryx Natural Resources.<sup>53</sup> But Stephen Timms, the minister for CSR, told the commons in November 2003: 'The role of the NCP is to facilitate a dialogue between the two parties with a view to resolving the issues raised. In this situation, however, the NCP cannot mediate between the parties as the expert panel has disbanded on the expiry of its mandate.'<sup>54</sup> After some pressure and facing the risk of public embarrassment, the DTI has since announced that it will follow up the panel's evidence with the four companies.

But the DTI's record of following up complaints made against UK companies under the guidelines is not good. Aside from the DRC cases, of three other complaints brought before the UK NCP, the number of those that have been comprehensively followed up total, in the words of Mike O'Brien's response to Jeremy Corbyn, none.<sup>55</sup>

One of the most rigorous voluntary codes, and one explicitly designed to promote and disseminate good practice among companies, is the UK's Ethical Trading Initiative (ETI). The ETI, which focuses on retail supply chains, is a tri-partite agreement between companies, NGOs, including Christian Aid, and trade unions, in which companies commit to following a largely labour-standards orientated base code and, critically, to working with their suppliers overseas to follow suit.

Companies' performance is monitored, through a system of company annual reporting, by the ETI's secretariat and board, and NGO and union members. The presence of many overseas affiliates

and NGO and union partners assists this process. There have been successes; a South African monitoring and verification project was developed to inspect the conditions on farms supplying wine to UK supermarkets. But the resources of NGOs and unions are stretched, and while companies report significant improvements in working conditions for some suppliers, few of these results are yet independently verified.

Five years since its formation, the ETI is coming under increasing pressure from corporate members whose efforts to fulfil the base code have been considerable – generally those whose customers have demonstrated more ethical awareness – to question



### Easy exit: how companies can leave voluntary codes

In early 2003, the ETI hit the headlines when high-street retailer Littlewoods announced it was to withdraw. The company's new owners, the Barclay brothers, had disbanded its ethical trade team, making many of them redundant, destroying at a stroke Littlewoods' hard-earned reputation as one of the ETI's best performers. In light of this, the ETI asked the new owners for confirmation that Littlewoods remained committed to ethical trade and challenged the company to demonstrate this. The company responded by resigning.

A Littlewoods spokesman dismissed the criticism that followed, reportedly saying that the company had been left 'punching above its weight' on ethical trade.<sup>56</sup> But, concerned that it no longer has a discrete ethical trading team, Christian Aid offered to assist Littlewoods in monitoring its supply chain. The company declined Christian Aid's offer and has since written to its suppliers asking them not to admit people who turn up to their factories ad hoc, for fear of being investigated by Christian Aid or other NGOs.

Although Littlewoods has insisted it remains committed to its code of conduct, the experience of Christian Aid's work with the ETI would indicate that companies' own codes only have practical value when they are backed up by commitment from the highest level and by resources.

The experience of Littlewoods shows how even the most rigorous of voluntary codes is no substitute for binding regulation. Companies can always walk away from voluntary codes, leaving their suppliers and the communities in which they operate without the protection of any guarantees of behaviour.

the continued membership of those whose efforts have been less impressive. Consequently, companies performing poorly in the ETI are increasingly required to demonstrate their commitment and threatened with expulsion from the code if they fail to do so.

### Not only CSR, but also...

*'It is paramount that all organisations comply with the law. Recent events have highlighted the importance of exercising responsibility abroad as well as at home. CSR goes beyond legal minimum requirements, it is certainly not a substitute for legal minima.'*

Stephen Timms, Minister for Corporate Social Responsibility<sup>57</sup>

Voluntary approaches can only ever address company behaviour in a partial and non-sustainable way. Market forces will push some companies towards more responsible practices, while others will take advantage of this to undercut them. Without

standardisation and regulation, companies will be at the mercy of their shareholders; communities will be at the mercy of the changing economic realities faced by companies; and consumers and investors will never know for sure if companies really mean it when they claim to be acting responsibly.

An increasing number of institutions and individuals are arguing that the only solution is for governments to step in and provide the necessary regulation.

In its keynote publication of 2001, *Beyond Voluntarism*, the International Council on Human Rights Policy (ICHRP) argues that: 'If self-regulation and market forces were the best way to ensure respect for human rights, one might expect, since this has been the dominant paradigm, the number of abuses attributable to companies to have diminished. In fact, in many parts of the world, the

experience of workers and communities is precisely the opposite.<sup>58</sup>

*Beyond Voluntarism* supports international, legally binding human rights standards for multinational corporations. It argues that international human rights law must apply to corporations because their power needs to be constrained, there needs to be a deterrence principle governing their behaviour, and victims need redress. ‘Just as human rights law was initially developed as a response to the power of states, now there is a need to respond to the growing power of private enterprise, which affects the lives of millions of people around the world.’<sup>59</sup>

Since *Beyond Voluntarism* was published, discussion about the need for greater business accountability has intensified. After more than 20 years of erosion of regulation by governments and business, international pressure in favour of regulating multinational corporations is beginning to build.

The Implementation Plan, issued after the 2002 World Summit on Sustainable Development in Johannesburg, moves beyond a reliance on voluntary approaches. It commits signatory governments to ‘actively promote corporate responsibility and accountability, including through the full development and effective implementation of intergovernmental agreements and measures, international initiatives and public-private partnerships, and appropriate national regulations’.<sup>60</sup>

Of even greater importance was the adoption on 13 August 2003 of a set of principles drawn up by a committee of UN human rights experts outlining corporations’ human rights responsibilities. The UN Sub-Commission on the Promotion and Protection of Human Rights’ *Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights*<sup>61</sup> consists of a restatement of relevant existing international legislation – chiefly humanitarian, environmental

and labour law – as it applies to companies. The principles also help address the responsibilities companies have concerning their subcontractors, as well as outlining under what circumstances individuals, workers and communities can seek redress from corporations.<sup>62</sup>

While NGOs and groups representing communities affected by company activities have welcomed these initiatives, international business lobbies have vigorously opposed them. When the UN Sub-Commission adopted the norms, the United States Council for International Business (USCIB) issued the following statement:

The USCIB position – supported by joint statements by the International Chamber of Commerce and the International Organisation of Employers – has been that the draft is unworkable, unnecessary and counter-productive to efforts to promote corporate responsibility.<sup>63</sup>

Early drafts of *Beyond Voluntarism* met with a similarly negative response from the International Chamber of Commerce (ICC). In a letter to the ICHRP, Maria Livanos Cattai, secretary-general of the ICC argued:

[The] ICC considers that the proposed draft risks inviting a negative response from business at a time when business is increasingly engaged in corporate social responsibility initiatives, and that the approach proposed by the International Council is counterproductive to actions taken by individual companies, as well as to other initiatives such as the Global Compact.<sup>64</sup>

These groups have the power to delay the establishment of binding regulation. The USCIB, for example, claims it is ‘working with the US Department of State to develop a strategy to deal with the draft code [UN norms] at the [UN Human Rights] Commission meeting’.<sup>65</sup>

However, companies cannot hold up regulation indefinitely. If the public pressure and political will is there, governments can and will hold companies to account for their behaviour, and protect the rights of vulnerable communities and individuals. There are signs that governments might be waking up to their responsibilities in this area. Despite the UK's position that company behaviour is best dealt with through voluntary approaches, past experience has shown that, when pressed, ministers are aware of the important role of international regulation. As Jack Straw, the foreign secretary, said in 2001: 'We cannot leave companies to regulate themselves globally, any more than we can do in our own national economies.'<sup>66</sup>

## 2 Sustained misery

# Shell in the Niger Delta

'Our core values of honesty, integrity and respect for people define who we are and how we work. These values have been embodied for more than 25 years in our business principles, which since 1997 include a commitment to support human rights and to contribute to sustainable development.'

How we work: honesty, integrity and respect, shell.com<sup>1</sup>

In Etegwe, in Nigeria's Bayelsa state, the smell of oil is overpowering. The creek onto which Irene Edema's house looks is awash with what from a distance appears to be a thick black soup. Close up it is clear that the community's main source of water for drinking and washing is now choked with crude.

'Our plantains have died,' says Edema, a 47-year-old health worker and mother of eight. 'Our fishpond is ruined and 50 fish were killed. I have to keep an eye on the young children the whole time. If they fall in there, it could be fatal.'

Further downstream, in Edepie, chief Game Emanuel is already counting the human cost to his community. 'One child died after being caught in the crude,' he says. 'About 20 of our people are going to hospital each day with skin problems, breathing difficulties and other illnesses.' (See 'Oil, Oil Everywhere', below.)

The people of Nigeria's oil-producing region, the huge expanse of delta where the river Niger reaches the sea, need no reminding about the significance of oil. They have been living with the consequences of a world that cannot get enough of the stuff for more than half a century. It provides more than 95 per cent of the country's hard-currency earnings. But while it should, and still could, bring prosperity to the Niger Delta, it has so far brought misery. For these people, one name is synonymous with all the ills oil has visited on their communities: Shell.

Shell Nigeria produces about 800,000 barrels of oil per day, pours hundreds of millions of pounds in revenue into Shell International every year, contributes 13 per cent of Shell's total turnover and will be the company's main source of expansion in this decade.<sup>2</sup> But while financially lucrative, the company's Nigerian operations remain in other respects the company's Achilles' heel.

It took the death of nine activists in 1995 at the hands of Sani Abacha's brutal military dictatorship to awaken the rest of the world to what oil exploitation was doing to the people of the Niger Delta. Among those killed was Ken Saro-Wiwa, a charismatic poet who had led the Ogoni people in their opposition to oil exploitation on their land. It is believed that prior to 1995, thousands of Ogonis lost their lives at the hands of the Nigerian military during protests against Shell.<sup>3</sup>

Saro-Wiwa, a vociferous opponent of Shell, was hanged by his government in the same year that the company faced a public storm over its plans to dispose of the Brent Spar oil platform in the North Sea. It was an *annus horribilis* for Shell, which saw a sharp drop in its share price, a fierce response from consumers and an exodus of staff.<sup>4</sup>

Eight years later, new Christian Aid research shows that Shell, in spite of its claims of 'honesty, integrity and respect for people', has failed to use its considerable influence in Nigeria to bring about





Polluted communities: some claim oil spills in the Niger Delta are as frequent as one per day

change in the Niger Delta. Shell is the operating company and largest stakeholder of Nigeria's main oil consortium. To many, it is the public face of Nigerian oil. Just as in 1995 and before, Shell presides over a situation in which the violence in the communities around the oilfields, exacerbated by cash payments made by the company, is spiraling out of control.

Christian Aid has found evidence that Shell's clean up of oil spills and repair of pipelines in Nigeria is scandalously inadequate and would never be tolerated in Europe or North America. Oil spills, made inevitable by a network of ageing pipes, many of which are still routed above ground, are left for weeks, sometimes months, without being cleaned up. Oil is carried downstream, visiting a deadly black plague on communities miles away from the original spillage. This makes a nonsense of Shell's claims of

'integrity and respect for people', and its 'commitment to support human rights and to contribute to sustainable development' in Nigeria.

Adding insult to injury, Shell has in recent years inflicted a dysfunctional development programme on communities in the Delta. The company says this is 75 per cent successful, but in arriving at its figure, only allows its external reviewers to examine projects no more than one year old. It is Christian Aid's view that Shell's community development programme is also too closely associated with the company's commercial activities and is targeted at communities in which Shell already works or hopes to expand its operations – a view with which Shell disagrees. The region is now a veritable graveyard of projects, including water systems that do not work, health centres that have never opened and schools where no lesson has ever been taught.<sup>5</sup>

As recently as 2002, concerned shareholders made Shell chief executive Sir Philip Watts, who served as Shell Nigeria's managing director in the early 1990s, personally aware of some gross failures in community relations. But the same problems persisted when Christian Aid carried out its investigation in October 2003. As Sir Philip has said: 'Corporate social responsibility is not a cosmetic; it must be rooted in our values. It must make a difference to the way we do our business.' But Shell's commitment to corporate social responsibility looks shallow in the light of the sustained misery of the people of the Niger Delta.

### Shell's community development programmes

*'Our community development approach seeks to promote an enabling environment... [the Shell Petroleum Development Company of Nigeria] continues to support education... Through focusing on water and sanitation and on health, we continue to promote healthy living standards.'*

Shell Petroleum Development Company of Nigeria 2002 report<sup>6</sup>

'The rain drains waste into the stream. People bathe in the water and urinate in it. But it's all we have to drink,' says Blessed Osuji as she collects water from Umuechem's only source – a polluted stream close to the village. Mother of ten Helen Omesurum fills jerry cans in the stream. 'It can cause typhoid, but there is no other water,' she says.

All day a line of people file to the stream and back, passing dry taps built in the village using community development money generated by oil.

Christian Aid saw six 'community development' projects in the 10,000-strong community of Umuechem in Rivers state in the Niger Delta, four 'donated' by the Shell Petroleum Development Company of Nigeria (SPDC) and two by the state-financed Niger Delta Development Corporation (NDDC).<sup>7</sup> None of them function.



Sophia Evans/NB Pictures

Oil, oil, everywhere: oil spills seep into creeks and pollute miles of waterways which people rely on for drinking and farming

The broken NDDC-supplied water system most directly threatens life and health. But on the way to the nearby Shell flow station, which has fresh water and electricity for its employees, there is the SPDC women's centre, in which no meeting of women has ever been held and a *garri* (cassava root) processing plant that does not work. To check on the SPDC post office, which has never handled a single letter, the SPDC secondary school, where no lesson has ever been taught, and the NDDC hospital, in which no patient has ever been treated, it is necessary to clamber through bushes overgrowing the sites. None of the projects were ever finished.

When Christian Aid met Shell to put its concerns to the company, Alan Detheridge, Shell's vice president for external affairs, exploration and production, pointed out that SPDC also paid for a 5.2km road in Umuechem. But, according to the people living in the community to whom Christian Aid spoke during its research, the road is also a source of frustration. Its overuse by vehicles driving to and from Shell's flow station, they said, mean it is frequently in a bad state of repair. Detheridge was also candid about the company's failures in Umuechem. 'I don't believe that many of these [Umuechem's] projects are in the best interests of the community as a whole,' he said.

Worse still, the spectacular failure of the community-development projects in Umuechem is reopening old wounds.

In October 1990, under military rule, the community resolved to demonstrate its indignation that, after more than quarter of a century of oil production on its land, it had no running water, electricity or secondary school. According to the members of the town's community that Christian Aid interviewed, young people mounted a peaceful protest at a road junction 3km from Shell's flow station. Local police danced and ate food brought from the village together with a good-natured crowd. In the face of the protest, the manager of SPDC's eastern division requested security protection from Nigeria's mobile police because of an impending attack on the flow station. The following day, young people from the community moved their protest onto Shell's premises.<sup>8</sup>

Shell contests this sequence of events, saying that its flow station was 'invaded by an armed group with guns and machetes that drove our staff away and demanded a number of things including the equivalent in naira of US\$12.5 million'. Then, says the company, the head of its division sent a letter requesting mobile police protection.<sup>9</sup> However, a Human Rights Watch report, written in 1995, states clearly that a first request for protection from the

mobile police was sent prior to 'peaceful protests by village youths on the flow station territory'.<sup>10</sup>

A further published account of the incident states that the request for mobile police protection sent to the Rivers State Commissioner of Police by JR Udofia, Shell's Divisional Manager, was headed: 'Threat of Disruption of Our Operations at Umuechem by Members of the Umuechem Community'. Said Udofia in the letter, 'In anticipation of the above threat, we request that you urgently provide us with security protection (preferably mobile police force) at this location.'<sup>11</sup>

The police killed three people when they first arrived, and another 45 the following day. They burned Umuechem to the ground, destroying 495 homes. By the time they had finished pulling demonstrators from their hospital beds and pursuing them through the local forests, the death toll stood at 80. An inquiry carried out by a retired judge in March 1991 also recorded the death of one regular policeman, Corporal Ojugbeli. Shell says it 'very much regrets the suffering and loss of life that occurred. The company have gone on record many times calling for restraint from all sides in disputes'.<sup>12</sup>

The inquiry left open the question of whether the community's demonstrations were peaceful or violent but recommended compensation of several hundred thousand naira (£1 is worth approximately 220 naira) be paid to the survivors of the massacre. Cheques sent to families by the Rivers state government bounced. To this day, no-one has received a penny.<sup>13</sup>

It took the traumatised community ten years to recover sufficiently to restart its campaign for basic amenities. Its hopes had been raised when the water-supply system was installed, and dashed when it broke after a few months. It had watched contractors come to start, but not finish, the hospital, secondary school, post office and women's centre. The Umuechem town council sought help from the Centre

for Social & Corporate Responsibility (CSCR), a Niger Delta NGO linked to the UK-based Ecumenical Council for Corporate Responsibility (ECCR).

In May 2002, CSCR representatives visited Umuechem and reported a '100 per cent failure' of SPDC and NDDC community projects. In a letter to NDDC, the group pleaded for prompt action, warning that the population remained 'traumatised' and its young people were 'volatile and prone to restiveness'.<sup>14</sup> Seventeen months later, when Christian Aid visited Umuechem, nothing had changed.

In October 2002, a group of Umuechem residents travelled to the Nigerian capital, Abuja, to protest to a panel of parliamentarians. They demanded a 15 billion naira (US\$100 million) compensation package from Shell. After a further five months, some residents staged a protest occupation of the flow station. Oil production was halted.

The confrontation threatened to result in another disaster, but was defused after CSCR and others conciliated. Community leaders say Shell signed a memorandum of understanding (MoU) with them, under which it agreed to 'take all necessary steps to resolve the grievances'. Community leaders in Umuechem also say that Shell promised to provide the town with fresh water and electricity, and recommence work on the secondary school.

Shell's Alan Detheridge told Christian Aid: 'The MoU has not been signed. It is certainly true that it was being negotiated and it is certainly true that clean water was part of that.' But during its visit to Umuechem, Christian Aid was given a copy of the MoU signed by 'Miss Tola Taiwo (Legal Adviser – SPDC Ltd)' and dated 19 May 2003.

'None of the things agreed in the memorandum have been forthcoming,' chief Nelson Amadi told Christian Aid. Shell has neither apologised for its part in causing the 1990 massacre nor protested at the Nigerian government's failure to pay compensation.

The Shell Nigeria website claims that the company 'repeatedly stated that we would not operate behind a military shield in the Delta' in the 1990s, but says nothing about the concrete instance in which 80 lives were lost after Shell requested the assistance of a notoriously brutal police against peaceful demonstrators. When asked by Christian Aid whether Shell would welcome a hearing on Umuechem in a court the company had confidence in, Alan Detheridge said: 'I don't think you welcome any lawsuit against you, frankly, but we'll put our case and see what happens. But I don't think it will solve very much however it turns out.'

Some responsibility for Umuechem's misery goes right to the top of Shell. In 2002, campaigners from a shareholder pressure group made Sir Philip Watts personally aware of Umuechem's continued suffering. As managing director of Shell Nigeria between 1991 and 1994, when the massacre was fresh in the public's mind, he might have regarded dealing with the situation in Umuechem as a priority. If he has taken action, no-one in Umuechem knows about it.

### **Development in reverse**

*'Corporate social responsibility is not a cosmetic; it must be rooted in our values. It must make a difference to the way we do our business.'*  
Sir Philip Watts, group managing director, Royal Dutch Shell

The failure of community development in Umuechem is not an isolated instance. The underlying problem with many oil industry 'community development' projects in the Niger Delta is that they are used not to help communities, but as a pay-off for access to land. They are all too often administered by exploration and production staff who know little about development and whose priority it is to keep oil flowing.

Oronto Douglas is a leading community rights campaigner and deputy director of Environmental Rights Action (ERA), part of Friends of the Earth



International. 'In response to our campaigning, the oil companies have introduced stay-at-home payments to youth, instead of providing employment,' he explains. 'They conclude MoUs with communities, most of which aren't fulfilled. They promise so-called development projects, but there is no incentive to make sure that these actually work. If Shell wants to put US\$69 million into community development, why doesn't it set up a foundation which has no direct links to the company and let development workers who know what they are doing manage the projects?'

Shell's Alan Detheridge told Christian Aid that its development projects were 'not all a doom and gloom story. If we were starting in Nigeria knowing what we know now we would do things differently,' he said. 'We would look a lot more carefully at what are the real needs and what are the real issues there. We would talk with a lot more people – NGOs, development agencies – with good advice to give, before we started.' Detheridge also confirmed that the company has considered distributing its community development money through an arms-length fund or foundation. 'That's something, frankly, we would like to work towards, but what you need is more capacity on the ground,' he said.

Development experts have repeatedly warned Shell about the problems with its community development programme. But the company prefers to trumpet the more-than-hundredfold increase in its community development budget – from US\$300,000-US\$400,000 per year in the early 1990s to US\$25 million per year in 1996 and US\$69 million in 2002 – than to publish, or discuss, comprehensive information on the impact of this expenditure. The extent of Shell's community development failure therefore remains difficult to quantify.

After a storm of criticism, Shell agreed in 2001 to allow development professionals to conduct an external review of its community projects. The review was limited to projects launched in 2000, and

its findings were leaked to the *Economist* magazine. Of the 81 projects visited by reviewers, 20 did not exist, 36 were partly functioning or partly successful and only 25 worked properly.

Two further reports, covering projects started in 2001 and 2002, show an improvement from terrible to bad. Of 87 2001 start-ups checked, external reviewers verified that more than one-third either did not exist or were not working.

Results improved in 2002, when only seven per cent of start-ups reviewed were non-existent, and a further 18 per cent unsuccessful.<sup>15</sup> But the importance of these results is undermined by SPDC's failure to conduct external reviews of projects more than one year old. 'The reason why we take a year at a time is quite simply because we want to measure whether there's any actual improvement going on,' Shell's Alan Detheridge told Christian Aid. 'In 1997 we did a five-year review of 900-plus projects. At some stage, certainly not this year, maybe next year, we'll have another five-year look back to get an overall picture.'

The external reviewers' reports for 2000-02 start-ups recommend that projects must be sustainable, transparent and community-based. But similar points were made in a report commissioned in 1996 by Living Earth, a development NGO. Shell has not acted on this report.<sup>16</sup>

Now, Shell's community-relations work in the Niger Delta is reportedly undergoing another relaunch. Shell insiders say that from 1 January 2004 it will be re-labelled a 'sustainable community development programme'. The US Agency for International Development is teaming up with Shell on a US\$20 million, three-year malaria-prevention programme, and a new youth employment initiative is being launched with the World Bank's International Finance Corporation. But development and aid workers in the Niger Delta fear that this will do little to ease the growing tensions between oil companies





Sophia Evans/NB Pictures

The Niger Delta's landscape is scarred by oil spills, and clean-up operations are often inadequate

and the communities in which they work. And sources in the Delta suggest that development agencies are hesitant to work directly with Shell because of its current community-development record.

A worrying sign is senior Shell managers' continuing aversion to a transparent examination of the company's problems. A report on Shell's relationship with communities in the Delta, co-written by Shell managers and the consultancy Congo On Line, was destroyed, according to one Shell insider. 'Even the computer hard disks were wiped.' Shell denies this and at a meeting with Christian Aid produced a copy of a report called *SPDC Review: Managing Community Interfaces – July 2002*. 'It's not our practice to spread these things widely throughout the organisation, frankly because they leak,' said Alan Detheridge. 'There are some significant changes that we have to make about the way in which we do our community

interfaces.' Christian Aid asked to examine a copy of the report, and awaits the company's response.

### **Oil, oil everywhere**

*'Being a good neighbour means taking the long-term view and learning – sometimes the hard way – to take more account of the impact of our operations on the lives of those around us.'*

Shell Nigeria website

On 23 September 2003, in Yenagoa, capital of the Niger Delta's Bayelsa state, an excavator driven by Shell maintenance contractors accidentally ripped into a pipe carrying oil from production wells in the Gbarain field to the Kolo Creek flow station. A fountain of oil 20-30 metres tall erupted out of the high-pressure line for more than 24 hours before Shell employees clamped it. The oil poured into a creek, polluting the communities of Edepie, Etegwe (see above), Okutukutu, Opolo and Biogbolo. Heavy

rain spread it more widely still. Shell staff placed about ten sandbags across one tributary of the creek and the contractors returned to their maintenance work.

Inemo Adaka is Bayelsa project officer for ERA. 'It was when they [the contractors] continued work, without having started clean-up operations, that anger boiled over in the community,' he says. 'Then Shell called in the mobile police to protect the contractors.' When Christian Aid visited the communities affected by the spill in late October, clean-up work had not begun. Shell met Christian Aid in mid-December, almost three months after the spill, and confirmed the clean-up had still not begun because of a disagreement between Shell and the Nigerian environment ministry over which contractor to use. When asked by Christian Aid whether the company had protested about the bureaucratic hold-up, Shell confirmed it had sent a letter to the ministry.

Shell managers' decision to continue maintenance work under mobile police protection seems doubly insensitive since local communities bore the brunt of the most recent large-scale massacre of anti-oil-company protestors.

In December 1998, under the transition government preparing to end military rule, soldiers attacked demonstrations opposing oil companies including Shell and supporting the Kaiama declaration of the rights of the Ijaw ethnic group. Human Rights Watch concluded that 'probably more than 100' people died, and that others were tortured, treated inhumanly and detained.<sup>17</sup>

During Christian Aid's meeting with Shell, Yaabari Uebari, a corporate adviser to the company on Nigeria and a former Shell community liaison officer in the Delta, blamed the spread of the spilled oil on nearby communities who, he said, had removed containment booms put in place by the company. 'They know that the wider the spill spreads the more

work there is in terms of clearing up, and because obviously local labour will be involved, they will get more money,' he said.

The response to the Yenagoa spill is not an isolated case. Christian Aid also visited Ogbodo in Rivers state, where a gigantic spill on 25 June 2001 was never properly cleaned up and continues to endanger life, health and the environment. Shell says this clean up has now been completed, although in late October Christian Aid saw a large quantity of oil still polluting the spill site.

While every major oil spill in Europe and North America makes headlines, the Niger Delta's disastrous, almost daily, spills are barely noticed.<sup>18</sup> But after years of such spillages, there are now instances of people demanding compensation before allowing oil-company staff access to spill sites. Sabotage of pipelines, either to steal crude oil or to demand compensation payments, causes some spills. But now Shell managers and people from communities affected by spills are increasingly becoming embroiled in disagreements over their cause.

For instance, Shell is locked in a fractious dispute with community organisations and NGOs over a spill on 10 July 2003, estimated at 1,000 barrels of oil. A 40-year-old trunk pipeline at Rumuekpe in Rivers state broke at a point in the pipeline that had also ruptured in 1994. Shell says the pipeline was sabotaged. But people in the six communities affected by the spill are fearful that a clamp put in place after the 1994 rupture worked itself loose. If the clamp had been left for so many years, that would be at variance with customary good oil-industry practice.<sup>19</sup>

Andrew Palmer, research professor in petroleum engineering at Cambridge University, told Christian Aid: 'Many operators would not think of a clamp as an adequate long-term solution. Clamping is normally a stop-gap measure, to be used until a permanent repair can be made.'

NGOs allege that after this year's Rumuekpe spill, SPDC managers made proper subsequent examination of the cause of damage impossible by sending in engineers, protected by mobile police, to clamp the pipeline. Only three weeks after the spill, on 4 August, did a joint investigation team inspect the damage. Community leaders say that the team did not include a community representative and that they did not know E A Amadi, who signed the team's report on behalf of the community.

Shell told Christian Aid that there was no longer a dispute and the community had now accepted the spill was caused by sabotage and that the clean-up had begun. However, this view is at odds with the testimony of those to whom Christian Aid spoke in the Niger Delta. Chidi Lloyd, who represents Rumuekpe on the Rivers State Assembly and chaired the three-person commission of Assembly representatives set up to investigate the spill, confirmed that there was a divided community, some of which works with Shell, some of which does not.

Christian Aid has asked to see a copy of the Rumuekpe joint investigation team report, which Shell has said it will provide.

Demands for better pipeline construction and maintenance have been central to community campaigns in the Niger Delta for years. A veteran oil industry executive, speaking in late 2003 on condition of anonymity, said: 'The oil companies couldn't get away with what they do in Nigeria anywhere else on the planet. They don't care about the communities they work in: they went to Nigeria because the oil is cheaper to get at than anywhere else except Kuwait. And they haven't improved.'

In response to pressure, Shell says it is cleaning up its act. The Shell Nigeria website cites a 'major' pipeline-maintenance programme, and gives figures for the burial of flowlines (minor pipelines that take

oil from wells to flow stations) but not of pipelines. There is no publicly available information from SPDC on the lifespan of its pipelines in Nigeria or on the application of the lifespan criteria commonly used by the international oil industry, such as those applied by the American National Standards Institute (ANSI) and the US Environmental Protection Agency.

Alan Detheridge admitted that the company's 'overall picture' of the age and condition of its pipelines in Nigeria with respect to industry standards was incomplete. 'We will try to implement this [a chart of the status of pipeline replacement in Nigeria] for next year,' he said, confirming that the company considers the lifespan of flowlines across land to be 15 years and across swamps to be ten years, and seeks to apply ANSI standards 31.4 and 31.8.

'Today, most pipelines are designed for a lifetime of about 40 years,' says Professor Palmer. 'Design, materials and construction standards, and technology, have changed a great deal since the 1960s, however, and if issues regarding the lifetime of pipelines are raised, responsible operators have nothing to hide and should apply the maximum transparency. That's the position taken in countries such as the US and Canada with high standards of freedom of information.'

### **Nigeria's violent oil curse**

*'Shell companies have developed closer, more open and more productive relationships with our host communities... [We] engage in many partnerships [with community groups and local government] that are having a catalytic effect both on our own outlook and on the quality of life in the [Niger Delta] region.'*

Shell Nigeria website

Close to Yenagoa, in Gbarantoru, conflict is boiling against a backdrop of increasing violence across the region, and particularly in the next-door Delta state. The quantity of firearms in gangs' hands is ballooning.

Oil companies make payments to local youth, as a substitute for the employment that communities demand, providing a steady stream of unchecked cash. And Shell insiders admitted to Christian Aid that such payments continue. 'A commandment has gone out that cash payments must stop,' said one. 'But God only knows how it will be implemented.'

Even the 2002 SPDC report admits that the cash payments remain a problem: 'A challenge is the demand for cash payments by some community youths,' it declares. Improved internal company coordination is still required to help 'control and phase out unnecessary cash payments (especially those that are part of the mainstream business activity but fall outside the scope of the community development programme).'

During Christian Aid's meeting with Shell in December 2003, the company also confirmed that in August 2003, SPDC staff had been told to make no more cash payments. 'The difficulty, frankly, is complying with that,' said Alan Detheridge. 'The first thing that we wanted to do was get a handle on it because these cash payments were being made out of all kinds of budgets. [Stopping cash payments] has some significant operational and even safety implications.'

The violence that has become the backdrop to oil exploitation in Nigeria is a symptom of the curse that many other oil-rich developing nations experience, although few with such virulence.

Christian Aid examined the curse of oil in its report *Fuelling Poverty: Oil, War and Corruption*, published in May 2003. The report highlighted the increased likelihood of conflict, poverty and economic failure in developing countries rich in oil. In few countries is this curse more severely felt than Nigeria. Critically, Christian Aid's report called on oil companies to break the cycle of addict-like behaviour over oil exploitation and end the curse. The case of Gbarantoru is a clear

example of why companies have a major role to play in changing the behaviour of oil-rich developing countries.

In 2001, Shell decided to more than double production in its Gbarain oil field in Bayelsa state. Its plan to drill two new wells in Gbarantoru split the community. Families on whose land the drilling was proposed, represented by the Nun River Keepers community group, demanded that repairs to previous damage be completed, and compensation issues be resolved, before drilling started. But one of the local chiefs, B N S Weke, and his family, with whom Shell's community liaison officers met regularly, were happy for drilling to start straight away.<sup>20</sup>

The Nun River Keepers allege that this division in the community, which Shell's actions aggravated, led to armed attacks on the company's opponents. Shell denies this, saying it is not in any way responsible for the division in the community. Alan Detheridge told Christian Aid: 'A divided community is not actually very helpful to us, because a divided community means tension and at some point that tension is going to cause problems.'

As the community's discussion on the prospect of new oil production intensified, so did the violence. On 2 March 2002, a gang of youths known as the Uwou Pele Ogbo gang, which had met with chief Weke, used threats to close down a conference on social and environmental issues in Gbarantoru. Two days later, according to the Nun River Keepers, Shell's community liaison coordinator Anthony Lawrence and three other Shell staff entered Gbarantoru after dark – in breach of Shell's own guidelines – and met Chief Weke.

In response to a Human Rights Watch report, which made the same allegation, Shell said that two meetings had been held, one during the day and one in the evening because people from the community were not available during the day.<sup>21</sup> The version of events Shell gave Christian Aid was

different. Yaabari Uebari said Anthony Lawrence was running late on the day he arrived in the community after dark and only went there 'in order to rearrange the meeting for another time'.<sup>22</sup>

Two weeks later, chief Weke and some of his supporters signed a Memorandum of Understanding with SPDC allowing drilling to go ahead, without consulting the families that drilling would affect or the community as a whole. On 9 April 2002, brothers Thankgod and Loveday Oyadongha, two of six community leaders who protested to Shell about the rig plan, told police that gang members had attacked them with sticks, machetes and pistols.<sup>23</sup>

But Shell's plans to drill at Gbarantoru suffered a setback on 23 May 2002, when traditional leaders from the region supported the Nun River Keepers' demand for past damage to be repaired before new drilling could begin. Pressure mounted in the summer of 2002, activists believe, because Shell's contractors, who had started drilling at nearby Opolo in June, were anxious to minimise costs by bringing their equipment straight from there to Gbarantoru.

On 21 July 2002, the Uwou Pele Ogbo gang rampaged through the area, firing pistols and brandishing machetes. They attacked and injured two opponents of drilling and a woman who tried to help them. Bubaraya Dakolo of the Nun River Keepers was shot at and his car vandalised. After complaints were made to the police, Chief Weke was arrested and released without charge; members of the gang were arrested and charged with relatively minor offences.

However, in mid-2002, amid escalating community conflicts, SPDC paused. Contractors abandoned drilling plans. But community leaders who tried to resolve outstanding issues were treated with contempt. A string of letters to Shell went unanswered. A meeting was fixed and then rearranged; community leaders travelled to it at great expense to find it had been cancelled without warning or explanation. In October 2003, Bubaraya Dakolo told Christian Aid:

'Shell has shelved drilling plans for the moment. But Gbarantoru is left with knives and pistols, with hostility. I consider that the whole community, these youths included, is a victim of the oil industry.'

Human rights organisations believe that state violence and gang violence, such as that in Gbarantoru, feed each other. They also feel that the cash payments youths receive from oil companies helps fuel the growth of armed gangs that engage both in organised crime (including oil theft, kidnapping and attacks on oil companies' staff), and ethnic and inter-community violence.<sup>24</sup> In late 2003, with the death toll from the latter reaching the hundreds in Delta state, fears were rising of a new and even more violent state clampdown.

One of the repeated claims in this report and in the Niger Delta's communities in general is that Shell frequently works under the protection of the mobile police. Alan Detheridge denied that this happens often. 'All we're saying is that the mobile police is now a part of the regular police, so when we ask for police to accompany us or to be there as witnesses as part of joint investigations, we have no say who turns up,' he said 'Most of the time it's regular police. But we can't dictate to the police force not to send a particular type of policeman.'

Under Sani Abacha, the mobile police had a fearsome reputation and were responsible for hundreds of incidents, in which large numbers of people were killed, such as the massacre in Umuechem. They underwent retraining when Abacha's government fell, but according to a recent Human Rights Watch report, 'the paramilitary mobile police remain deployed in the Delta, as throughout Nigeria', and continue to beat, detain and even kill 'those involved in protests, peaceful or otherwise, or individuals who have called for compensation for oil damage'.<sup>25</sup>



## Profits and transparency

*'We support efforts such as the UK government's Extractive Industries Transparency Initiative, the Publish What You Pay campaign, and work by the World Bank and others to promote transparency of oil and gas revenues.'*

*Meeting the Energy Challenge, the Shell report 2002*

Nigeria's population, one of the world's poorest, has not benefited from the fabulous oil riches produced, largely by Shell, over the past half century. Some economists and development experts argue that Nigeria is actually worse off in development terms because of oil. All agree that financial transparency is vital to help direct oil revenues towards funding development.<sup>26</sup> While the Nigerian governments that have presided over this human catastrophe must take much of the blame, oil companies have also participated in the extraction of the country's oil wealth at the expense of the communities living around the oilfields.

Recently, the Nigerian government has made significant moves to fall into line with UK-backed Extractive Industries Transparency Initiative (EITI). In a speech on 7 November 2003, Olusegun Obasanjo, Nigeria's president, pledged that the government would publish openly the revenues it receives from the oil industry.<sup>27</sup> Under the EITI, Nigeria would make public all oil company payments and require that all companies also publish details of payments independently.

Shell claims to favour transparency, too. But its own recent decision to publish information about payments to the Nigerian government is only half the story. George Frynas, a lecturer in international management at the University of Birmingham, who has followed Shell's activity in Nigeria for more than a decade, told Christian Aid: 'If the company means what it says about transparency, it could start by publishing the revenue it itself receives from Nigerian operations, and a thorough breakdown. Otherwise it is declaring its support for transparency initiatives

while not taking the most important practical steps towards being more transparent.'

The SPDC 2002 report states: 'At an oil price of US\$19 per barrel, the government's take in taxes, royalties and equity share is US\$13.78 per barrel. Of the remaining US\$5.22, operating cost and future investment take the lion's share, with about US\$1.22 left to be shared as a margin among the private shareholders (Shell, TotalFina Elf and Agip).' However, Shell does not publish disaggregated accounts for SPDC. Shell International has promised, on Christian Aid's behalf, to request a copy of SPDC's accounts from its subsidiary.

'We're not holding ourselves up on a pedestal in Nigeria. We think that we have made some changes both in the way that we operate and in the way that we interact with communities, and that those changes have been for the better,' Shell told Christian Aid. 'But we don't say that it's been a complete success, far from it. And we're pretty open about some of the issues and some of the dilemmas and problems in the annual report that comes from Nigeria.<sup>28</sup> I think we'd also say that Nigeria is a very tough place to operate.' Shell also says it is now inviting external specialists to look at its operations and advise the company about what it is doing.

If these assurances are to mean anything, Shell should now make public its accounts for Nigeria, joint investigation reports about spills, information about the age of its pipelines and other documents that NGOs and campaigners have been requesting – in some cases repeatedly and for many years. Shell has already indicated its willingness to share some documents with Christian Aid – a welcome move that it should pursue more widely. The company should also support public enquiries into some of the more tragic oil-related events of the past, such as Umuechem. These still cloud the present-day Niger Delta and threaten its future security.

# Hooked on tobacco

## BAT in Kenya

‘Our approach over many years has been to work through dedicated staff in the field alongside farmers, many of whom are small producers in scattered rural communities. We train, advise and support farmers, providing seed and advice on all aspects of crop production. Our approach benefits the environment and benefits both the farmers and us in improving crop yields and quality.’

British American Tobacco website<sup>1</sup>

George O has farmed under a British American Tobacco Kenya (BAT Kenya) contract since 1996. He cultivates around two acres of tobacco in the Rangwe division of Nyanza province on the shores of Lake Victoria.<sup>2</sup>

In order to sell his crop to BAT, George O must grow it according to the company’s instructions. He must raise the seedlings, transplant them into his fields, spray pesticides from a backpack and harvest by hand. Then, using a straw-roofed barn, he must dry the leaves by curing them over a fire, sort them into the bewildering number of grades insisted on by BAT, before selling them to the company at market.

For all this effort – spanning nine months of George O’s working year and leaving him little time to grow other commercial crops – when the loan he has taken out from the company is deducted from the value of his leaf, he earns little. In 2003, George O says he made a profit of 10,000 Kenyan shillings (US\$140).

George O does grow maize, beans and tomatoes alongside his tobacco, but only so his family can survive, tiding them over until he delivers his next harvest to BAT. He says he would prefer to grow only vegetables as he feels this would be far less

labour intensive and less harmful to his health and that of his family. George O, like many of his neighbours who also grow tobacco for BAT, is concerned about the symptoms he suffers when he uses the pesticides sold to him by the company.

‘During spraying we have problems with the chest and when we harvest we get skin irritations, especially on the arms,’ he says. ‘When we ask for protective gear, they [BAT] say they will bring it and then time goes by.’ BAT Kenya says farmers have protective clothing. In a statement responding to Christian Aid’s concerns, the company says, ‘All farmers are provided with protective clothing and training on how to use it. The ultimate responsibility of wearing this clothing lies with the farmer.’

But George O has no protective clothing and little understanding of what some of the pesticides – especially organophosphate insecticide – might be doing to his health. He also knows little about how the tobacco leaf he sells BAT is valued; he has to rely on the word of the company’s leaf technician who weighs and grades the tobacco, and determines how much George O is paid for it. And George O, like many other Kenyan tobacco farmers, is concerned about the lack of transparency in this process – there is no third party present – although



Farmers in Kenya use similar chemicals to those in Brazil where Christian Aid reported a catalogue of illnesses corresponding to spraying

BAT says that an elected farmers' representative should act as an independent checker.

Research among tobacco farmers in Kenya, the vast majority of whom work under an annual BAT contract, indicates that many experience symptoms associated with exposure to pesticides – breathing difficulties, nausea, chest pains, and eye and skin irritation. In the words of one farmer: 'Officials of tobacco companies will never enter areas of activity without protection. Yet they watch us do tobacco work without the protective gear. This is a sign of how uncaring the companies are.'<sup>3</sup>

A new study also indicates that many of the tobacco farmers contracted to BAT Kenya might actually lose money on tobacco cultivation, rather than earning a decent return for their hard work and for the risks they take.<sup>4</sup>

That farmers in Kenya appear to suffer ill-health associated with pesticide exposure, that they spray without protective clothing, that they work hard and add such value to their tobacco but receive such scant reward, will come as no surprise to BAT. In

January 2002, Christian Aid published a report, *Hooked on Tobacco*, in which precisely the same concerns were raised about tobacco farmers under contract to BAT's subsidiary in Brazil, Souza Cruz.<sup>5</sup> Christian Aid met with BAT shortly after the report was published to reiterate its message – that knowing how vulnerable the small scale family farmers who grow its tobacco are, BAT is failing in its duty of care over them as *de facto* employees.

The government of Kenya and the country's tobacco companies, of which BAT Kenya is the largest, maintain that tobacco farming is vital to the country's economy. The company also says it 'regards its farmers as valued business partners'. Yet Christian Aid's partner organisation in Kenya, the Anglican Church of Kenya, has harboured concerns for several years about the impact of tobacco cultivation on the areas in which it is grown and on the farming families who grow it.

Now, Christian Aid's investigation, and new studies by national and international organisations, indicate that the benefits to farmers are questionable, and that tobacco growing may be harmful to farmers'



Christian Aid/Judith Melby

Daniel Obech sprays pesticide on his crop in 2001. He stopped farming for BAT in 2002 because of ill health

health and may even endanger the food supply in Kenya's poorer communities. In addition, Christian Aid has obtained BAT company documents showing that in the past BAT Kenya has influenced Kenyan legislation in the company's favour.

#### Farmers report ill-health

*'Environmental issues and health and safety are high priorities for responsible companies – and British American Tobacco is no exception.'*<sup>16</sup>

BAT website

In Kenya, tobacco is grown almost exclusively on small plots of land – some as small as a quarter of a hectare – by family farmers who live as well as work

among their tobacco fields. For them, there is no escaping either the tobacco or the products they spray on it.

Under BAT Kenya contracts, pesticides and fertilisers are given to farmers as a loan, which is then deducted from their final earnings. George O's contract with BAT stipulates that while spraying pesticides farmers should 'always wear boots, gloves and clothes that cover the whole body'. However, like most farmers in the region, he has never been given, sold or even offered protective clothing without prompting the company. Even then, none arrives.

Another farmer who didn't use protective clothing is Daniel Obech. 'BAT tells us such things are needed, but since we don't have them, we use pesticides without them,' he told Christian Aid in January 2001. At the time, Obech was cultivating two hectares of tobacco for BAT Kenya.

Less than one year after Christian Aid's first visit to his farm, Obech quit tobacco farming for health reasons. 'I was ill and had very little strength,' he said in 2003. 'Now my strength is coming back.' Obech is growing tomatoes and vegetables, and is earning less. But, he says, the fact both he and his family are in better health means it is worth it.

Obech, who began growing tobacco for BAT Kenya in 1994, explained in 2001 how labour intensive the work was. From October to July he was kept busy preparing the nursery, seedbeds and fields, transplanting seedlings, weeding, removing suckers and spraying pesticides. 'When I am spraying, I feel like I am going to vomit,' he said. 'After spraying you can't eat, you have no appetite.'

Obech was one of 20 farmers surveyed in 2000 for health problems experienced throughout the tobacco-growing period, during which pesticides are applied weekly. All complained of constipation, 18 of nausea, 11 of blurred vision, 18 of headaches,



19 of eye irritation and eight of chest pains.<sup>7</sup> BAT Kenya says it has not seen the survey. ‘Suffice it to say that our extension [advice and training] services support to our farmers cover all aspects of environment, health and safety,’ said the company.

Many farmers across the tobacco-growing area of Nyanza province make similar health-related claims about growing tobacco for BAT Kenya. Three brothers, who, between them, have worked for BAT Kenya for 60 years, complain of poor information about the potential harm the pesticides they use might do to their health. They also complain of health problems and poor pay.

The three live in a family compound close to their curing house. ‘The kind of illnesses we have we can link to work,’ says one. ‘We have skin irritations, coughs and aching joints. During curing time the children sneeze a lot.’

The words of the Kenyan farmers echo those of Brazilian farmers Christian Aid interviewed during research for *Hooked on Tobacco*. ‘The harvest is the worst time for me, especially if the leaves are wet. Last year I was sick for three days,’ said Bruno Filho, a tobacco farmer from Rio Grande do Sul in southern Brazil.

*Hooked on Tobacco* revealed how, in the view of farmers and farmers’ organisations in Brazil, Souza Cruz had encouraged a spray-happy culture where pesticide use and misuse was common. In Kenya, farmers use a similar prescription of pesticides – including Orthene, an organophosphate (OP) insecticide, and Dithane, an ethylene (bis) dithio carbamate fungicide. OPs have been linked with neurological damage and are based on nerve agents. Ethylene (bis) dithiocarbamates, although low in acute toxicity, have been linked with Parkinson’s Disease-like symptoms. Souza Cruz recommends and sells both of these pesticides in Brazil.<sup>8</sup>



Christian Aid/Justin Macmillan

Farmers are concerned that there is often no third party present when BAT buys their tobacco

BAT Kenya says it trains, supports and advises farmers on appropriate agro-chemical use and storage. ‘Over many years, the overall number and quantity of agro-chemicals used in British American Tobacco programmes has been significantly reduced to less than 2kg per hectare of active ingredient.’

The company’s claim that it provides all contracted farmers with protective clothing is thrown into sharp relief by the accounts of the farmers themselves. The Kenyan brothers’ biggest complaint is the lack of protective clothing for pesticide use. ‘We have seen the picture [of a farmer wearing protective clothing] in the BAT Kenya contract. There was one time when they brought boots and overalls. They said the cost would be deducted from our dockets,’ explains one of the brothers. ‘When we protested they said they had paid for the boots and for the tailors to make the overalls and therefore we had to pay them.’

The wife of another interrupts at this point. ‘I would appeal for protective clothing. Anyone in contact with tobacco work should be protected, especially the children.’

All BAT Kenya farmers have a contract or ‘pass book’ with BAT. Under the heading ‘Environmental and Safety Issues for Farmers’ it stipulates that



farmers should 'always wear boots, gloves and clothes that cover the whole body'.

But the pass book is confusing. It contains an educational comic strip called 'The Progressive Farmer'. Beside the instruction 'Do not spray [pesticides] against the wind', a farmer wearing protection is pictured. The picture immediately below shows a farmer spraying into the wind wearing everyday clothing, which is captioned 'It is harmful to your health'. BAT Kenya says this is intended to illustrate good versus bad practice, but the captions could easily mislead the reader into believing that only spraying against the wind is harmful.

It is not a contractual obligation for farmers to wear protection and, as contracted workers and not employees, BAT is under no legal obligation to ensure that they do. On most occasions, according to farmers' testimony, BAT makes no clothing available and the contract does not specify whether it is the responsibility of the company or the farmers to provide it. However, BAT claims in its statements on social responsibility to have high standards of health and safety when it comes to its farmers.

In Brazil, Christian Aid found that while many farmers had protective clothing, which they were required to buy from Souza Cruz, few of them understood its importance or how to use it. *Hooked on Tobacco* accused BAT of 'failing to guarantee sufficient training and safety on small-scale, family farms'. The company's Kenyan subsidiary appears to be displaying the same failures.

SocialNEEDS Network, a Kenyan NGO based in Kisumu in the heart of the tobacco-growing district, has made a study of the hazards tobacco farmers under contract to BAT Kenya face. The statistics are shocking.

Of the 200 farmers in three districts in Nyanza province surveyed by SocialNEEDS Network, 96.3 per cent never used goggles, 92.6 per cent never

wore overalls and 92.6 per cent never wore gumboots. The figures for children helping out on the farms are equally worrying. Only one per cent wore overalls and less than one per cent wore boots.<sup>9</sup>

In addition to the risk posed by pesticides, tobacco itself is toxic to workers. Green tobacco sickness (GTS), an illness explored in detail in *Hooked on Tobacco*, is often found among farmers harvesting tobacco. It is caused by dermal (skin) absorption of nicotine from direct contact with wet tobacco leaves. Its symptoms include nausea, dizziness, cramps and aching joints. During harvest time, the average farmer may be exposed to up to 600 millilitres of dew or rain on the tobacco plants, which carries the equivalent nicotine content of 36 cigarettes.<sup>10</sup>

Health workers in developing countries have insufficient resources to deal with sick farmers. But the clinical officer for Rangwe, Dr Japheth Opiya, sees most of his patients during the harvest and curing season. Most complain of coughs, aching joints and rashes on their arms, which he suspects are caused by GTS. 'Unfortunately most farmers do not make the connection between their health problems and tobacco,' says Dr Opiya.

Dr Opiya is also concerned by the extensive use of pesticides. He does not have the resources to monitor the effects but 'all the chemicals run into the river', he says. 'We depend on the river for everything: washing, drinking and cooking. All these pesticides are washed into the river, it touches everyone, even if you are not a farmer.'

BAT Kenya says it 'cannot provide a blanket response on farmers' health conditions without professional medical reports and careful consideration of each individual's health condition and other mitigating circumstances.'

Farmers in Kenya are contracted to work for BAT Kenya under very similar circumstances to those contracted by Souza Cruz in Brazil. They, like their

Brazilian counterparts, are small-scale farmers who live and work among their tobacco crop. Anything they do to their crop, such as spraying pesticides on it or curing it, takes place a matter of feet from the family.

### Poor returns

*'All you see now are dwellings and tobacco-drying kilns in the compounds. Tobacco, the cash crop, has replaced food crops and livestock, and threatens the food security of every family. Yet tobacco is not yielding enough money for these people to buy food for subsistence and viable livelihoods.'*

Excerpt from testimony submitted on 17 August 2000 to the World Health Organisation's public hearing for the Framework Convention on Tobacco Control

Many farmers regard tobacco as a good money earner as they receive an annual lump sum after their tobacco leaf is graded. BAT Kenya is acknowledged as paying promptly which is important in an area where other cash crops only show a return on a piecemeal basis. In the words of one farmer: 'Tobacco is the one crop which gives me cash quick.'

Psychologically, the lump-sum payment is significant. Because cash flow is a major problem for the majority of poor farmers, BAT Kenya's record for prompt payment on delivery of the tobacco crop is seen as a plus point. But farmers are not skilled at budgeting, many are also illiterate, and they often fail to take account of the time it takes them to cultivate their tobacco and other costs, such as fuel for curing the leaves.

A new study by Dr Esther Arthur-Ogara of the Kenyan Ministry of Health, in conjunction with the University of Indiana, promises to explode the myth of good returns from tobacco. The farmers, who are poorly educated, have difficulty organising a budget. Dr Arthur-Ogara's team has been working on budgeting with them – hitherto a small sample

group of 17 – teaching them to take proper account of their business expenditure and labour costs during the nine months they spend cultivating tobacco. Their study, as yet unpublished, indicates that rather than earning tobacco farmers generous profits, more than 80 per cent of them incur a financial loss.<sup>11</sup>

BAT Kenya says that prices paid to farmers are reviewed 'annually, in line with other local cash crops, in order to remain competitive'. The company also provided Christian Aid with a league table of crops in the Bungoma growing region of Kenya, which puts tobacco as the fifth highest earner behind tomatoes, groundnuts, bananas and kales (vegetables), and ahead of maize, sunflowers and cotton. However, tobacco is a notoriously labour-intensive crop to cultivate. AFUBRA, the industry-backed tobacco-growers' union in Brazil, says that tobacco cultivation is ten times more labour intensive than maize growing.<sup>12</sup> BAT Kenya's figures for Bungoma also reveal that Kenyan farmers are paid around US\$0.7 per kg for their crop and that they receive less than half of this once the cost of the products sold to them by the company is deducted.<sup>13</sup>

BAT Kenya told Christian Aid that the loans it gives to farmers are interest-free and that it also gives 'free fertiliser and any required chemicals on centralised nursery sites'. However, according to Joe Asila, executive director of SocialNEEDS Network, 'Those [centralised nursery] sites existed 20 years ago. For at least the last 15 years farmers have been obliged to buy [through BAT Kenya loans] their own seeds, their own fertiliser, their own chemicals. There are no centralised nursery sites where such things are provided free of charge by BAT.'

For George O, as for the majority of the farmers Christian Aid interviewed in Brazil, the company's tobacco-grading process holds the key to income. In Brazil, many farmers claimed that the grading process, at which they were rarely present, was not

transparent and rarely verified by a third party. George O and others share the concern of their Brazilian counterparts, believing that they lose out in a system of classifying their tobacco, which is not transparent and not verified independently.

Daniel Obech also told Christian Aid he was concerned about the leaf-grading system. Although the farmers give their tobacco a preliminary grading, final classification is done at the market by BAT Kenya leaf technicians. When he left home with his 2000 harvest he thought his grades were good. 'But when I was in the market the grades were bad, my bonus was very small,' said Obech in 2001. 'I cried when I went home.'

The three brothers from Nyanza province also suspect BAT Kenya underpays them. There are so many grades of tobacco they find the system 'confusing'. In addition there is no independent checker of the tobacco leaves, say the brothers. BAT Kenya defends the system, pointing out that local or national government officials have the power to inspect 'any premise(s) where tobacco is either grown, marketed or stored, thus giving farmers protection and assurance'. The company also says that elected farmers' representatives should be present at tobacco markets.

The farmers Christian Aid interviewed for *Hooked on Tobacco* made similar allegations about the tobacco-grading process and how it determines what they are paid. The report stated: 'Christian Aid's concern about the pricing of farmers' tobacco in Brazil relates to the transparency of classification by Souza Cruz. All farmers interviewed during research for this report felt they were not receiving the price they expected for their tobacco harvest.' The evidence from Kenya indicates that Christian Aid should reiterate its concern.

While there is a growing feeling that tobacco earns little or nothing for many of the families who cultivate it, there is also mounting pressure from those who think tobacco's economic contribution to

the districts in which it's grown is overstated. Kenya's National Tobacco Free Initiative Committee, which is headed by Professor Peter Odhiambo, campaigns for crop substitution – replacing tobacco growing with food-crop cultivation. He is scathing about what he sees as interference by the tobacco companies in what should be domestic Kenyan affairs.

'Multinationals are lethal, unethical and corrupting... They think they can arm-twist Third World governments with threats of labour unrest and loss of revenue.' To back up his point Professor Odhiambo uses 1999 statistics from the Ministry of Agriculture for Mbeere district, a major tobacco-growing area in Eastern province.

'These are the revenues from that area – 16 million schillings from mangoes, eight million from papaya, 5.5 [million] from cotton and for tobacco 430,000 schillings. Tobacco is not essential for our economy and we should be concentrating on building a market system for food crops.'

The lack of a reliable local market for vegetables, however, makes it difficult for farmers to move away from tobacco and concentrate on growing food. BAT Kenya itself says that: 'Tobacco in Kenya is predominantly grown in marginal areas where there are limited alternative economic activities.' In addition, the tobacco season, which is nine months long, leaves little time for farmers with small plots to grow substantial amounts of food. Farmers need to produce two maize crops per year to provide sufficient food to feed their families and also generate a profit, making commercial maize-growing alongside the cultivation of tobacco impossible.

The focus on tobacco cultivation in some regions of Kenya may contribute to the poor food supply in those areas. 'Due to the twin fact that a lot of valuable land space and quality time are allocated to tobacco growth, food production suffers,' says

Samson Mwita Marwa, a former tobacco farmer and member of the Kenyan parliament. 'As a result, Kuria district [a tobacco-farming region] has joined arid and semi-arid areas as an area constantly in need of famine relief.'<sup>14</sup> A survey by UNICEF found that 52 per cent of children in Migori district, next to Rangwe and also a major tobacco-producing area, suffer from either chronic or acute under-nutrition or are underweight.<sup>15</sup>

### Under the influence of tobacco

*'Today perhaps more than ever before, society expects companies to use their economic strength for broader social goals, and to demonstrate environmental responsibility, support for communities, high standards of ethical behaviour, and greater transparency and accountability.'*<sup>16</sup>

BAT website

Far from the shores of Lake Victoria and the tobacco fields, Kenya's capital Nairobi has become a key battleground in the war between the tobacco industry and health professionals.

The country's proposed Tobacco Control Bill is at the centre of this battle. In 1999 a draft was sent to the Ministry of Health for final approval, updated versions were produced in 2001 and 2003 but, amid rumours of tobacco-company pressure, it has still not been enacted. The Bill's proposals, backed by the Kenya Medical Association, envisage the creation of a regulatory board and restrictions on hawkers and vendors. BAT Kenya was not consulted or involved in drawing up the legislation on this occasion. Observers are therefore suspicious that the company may be behind the delays.

Suspensions about BAT Kenya's influence on the current Kenyan government are not without foundation. BAT company documents held in the UK, where legal action by smokers has forced tobacco companies to make their records public, show that BAT exerted considerable pressure

on the previous government of president Daniel Arap Moi.

In 1994, his government passed the new Crop Production and Livestock (Tobacco Growing and Marketing) Bill, which gave a legal basis to the relationship between farmer and tobacco company. The Bill, drafted at a time when BAT Kenya was facing increasing competition from a rival company called Mastermind, forbids farmers from making a contract with more than one company or growing tobacco 'out of season'.

In a statement to Christian Aid, BAT Kenya said that it is not against Kenyan law to grow for more than one company. However, the 1994 Act says: 'No farmers shall enter into sponsorship agreement [contract] with more than one sponsor for the same growing season.'<sup>17</sup> BAT also says that preventing out-of-season growing is in the farmers' favour because it ensures 'control of leaf diseases which, if not checked, can wipe out tobacco cultivation causing huge losses to farmers'.

But documentary evidence, shown to Christian Aid by a research team at the London School of Hygiene and Tropical Medicine and soon to be published in the UK, reveals BAT Kenya's role in drawing up the legislation.<sup>18</sup>

A fax from the company's regional director before a visit to London by Daniel Arap Moi says: 'The Kenyan government has passed a "tobacco bill", which looks as though it will be very successful (if properly implemented) in stopping poaching [of farmers and tobacco by other companies] and illegal out-of-season growing. *The law was actually drafted by us but the government is to be congratulated on its wise actions* [Christian Aid's italics].'<sup>19</sup>

BAT Kenya had grown increasingly concerned that Mastermind was offering farmers one shilling per kg more for their tobacco. Although worried that this was encouraging farmers to sell tobacco

grown for BAT to Mastermind, an internal BAT Kenya letter confirms that this was not the company's primary concern. 'This tactic of paying the extra shilling to the growers is far more damaging to us in another way. He [Mastermind's owner] is advising the farmers that BAT has, through all these years, been underpaying them, and now he, the bright knight in shining armour, is paying the price they deserve for their labour. You can imagine the reaction of the farmers. Recently, I gave a short presentation to 200-300 on one of their market days and their general attitude towards me was positively hostile.'<sup>20</sup>

However, BAT Kenya's record of under-paying farmers was even criticised by BAT head office in London. Its 1992/96 company plan noted that: 'The price per kilo paid to farmers is well below inflation each year... we do not agree with BATK's philosophy.'<sup>21</sup>

In another letter to BAT Kenya, written in 1991, BAT head office observed: 'You are paying less to farmers than any other African leaf-growing company and only 46 per cent of crop cost actually goes to farmers compared to up to 70 per cent in other countries.'<sup>22</sup>

BAT Kenya says it is 'not aware of the specific documents or of any such concern'.

### **Beyond *Hooked on Tobacco***

*'In 2002, Christian Aid published a report on concerns about tobacco growing in Brazil. They published the main points of our reply and our subsidiary in Brazil has held constructive discussions with Christian Aid and Brazilian farm workers' groups.'*

BAT website<sup>23</sup>

The concerns raised by Christian Aid's latest investigation in Kenya, supported by Kenyan and international studies, are so similar to those raised in *Hooked on Tobacco* that it begs the question: is



Christian Aid/Judith Melby

The Kenyan Ministry of Health is battling to get its tobacco Control Bill approved by Parliament. Some observers think its delay is due to interference by tobacco companies

BAT's model for contracting farmers, and the problems it throws up, repeated in other countries? If BAT is similarly failing in its duty of care towards farmers in many of the other countries in which it contracts them, it would be legitimate to question BAT's use of the term 'sustainable development' in relation to tobacco cultivation.

Others are already raising similar concerns to those in *Hooked on Tobacco*. In August 2002, the Department of Rural and Social Economic Studies (DESER), the Brazilian partner organisation with which Christian Aid jointly published *Hooked on Tobacco*, was asked by a government fiscal tribunal in Brazil to further research one of the allegations in the report.

*Hooked on Tobacco* investigated the mystery surrounding the use of Brazilian government credit – the PRONAF – by tobacco companies. It revealed that Souza Cruz, BAT's Brazilian subsidiary, was claiming credit from the Brazilian government intended for small-scale farmers. Many of the farmers Christian Aid interviewed were unaware that government credit had been claimed in their name, others had discovered that they already owed the scheme money when they tried to claim credit themselves in order to grow other crops.<sup>24</sup>

DESER interviewed a further 50 farmers in ten different districts in Santa Catarina (not only those under contract to Souza Cruz), one of Brazil's three tobacco-producing states. Its subsequent report, submitted to the Minister of Agrarian Development in Brazil, supports the theory put forward in *Hooked on Tobacco*. DESER found that 40 per cent of the farmers interviewed did not think they signed documents in addition to the contract with the tobacco companies and 80 per cent said they did not have any documentation of a credit agreement involving the PRONAF. Since 2002, tobacco companies have been prevented from using the PRONAF.

Following the publication of *Hooked on Tobacco*, Christian Aid met BAT to reiterate its concerns. Since then Christian Aid has turned down several further offers to discuss the matter with the company because it is Christian Aid's view that BAT now fully understands the concerns expressed in the report. However, there has been a series of dialogues involving DESER, Souza Cruz, local and state government officials, tobacco growers' unions and rural workers' representatives. DESER feels the talks have yielded little concrete, but believes they are important if the short-term well-being of the tobacco farmers with whom it works is to be improved.

'The company hasn't done anything of substance [since the dialogues began],' says Moema Hofstaetter, institutional development coordinator with DESER. 'But having the dialogue is important because it's the first time the tobacco industry has agreed to talks with NGOs and farmers' representatives. It's also helping the farmers become more aware of their rights.'

'The report has had a huge impact at both national and international level. Souza Cruz told us that the company has lost contracts because the report is also posted on DESER's website.'

The attorney general in Parana, another of Brazil's

tobacco-producing states, has also convened a series of meetings to discuss what should be done about the tobacco industry. Its report, *Tobacco Growing – Proposals for Action, Parana*, includes measures to control the use of pesticides, check the health of farmers, eliminate the use of child labour in tobacco production and control the grading of farmers' tobacco by companies. The report also focuses on the development of alternative crops to tobacco. DESER is taking part in these meetings and is acting as a 'watchdog' in the process. Throughout, *Hooked on Tobacco* has been used widely to support these discussions.



# Living its values

## Coca-Cola in India

'At the heart of our business is the trust consumers place in us. They rightly expect that we are managing our business according to sound ethical principles, that we are enhancing the health of our communities, and that we are using natural resources responsibly.'

Douglas N Daft, Coca-Cola chairman and chief executive<sup>1</sup>

Sitting at the factory gates, villagers from Plachimada in the southern Indian state of Kerala wait patiently for a change of heart from the mighty multinational Coca-Cola as its delivery vehicles trundle back and forth.

Through the crushing heat of the day and the oppressive dark of the night they sit, and have done for more than a year. Members of their community pass by, some stop to give support or food. The sitters sacrifice their vital working time and scant resources to keep hammering home their message: Coca-Cola, the factory's owner, is depriving them of one of their most basic human rights – water.<sup>2</sup>

Mylama, a 55-year-old woman, leads the protest. She says that rainfall has been scarce for the past two years. 'But the availability of water in the well has no relation to rain,' she insists. 'Even when we had less rain before the company came, we still had no shortage of water.'

Another protestor, 64-year-old Shahul Hameed, has been farming since he was born and his land runs up to the Coca-Cola factory confines. 'According to my traditional measures, the water in my well used to be 22 mola<sup>3</sup> deep. Now it's only one mola deep,' he says. 'I was able to run my pump for 14 hours every day. Now it will only run for 30 minutes. That shows you how my agriculture has suffered.'

As they sit, day after day, the community's water is drawn up from the ground by the factory's pumps

and processed by its machinery into cola, other fizzy drinks and even, ironically, a carbonated water called 'Kinley'. It then leaves the factory in bottles on the back of trucks. From Plachimada it is transported to Indian towns and cities where it is bought by those who can afford bottled water. From the wells of Mylama and Shahul, to the tables of the urban elites, courtesy of Coca-Cola.

It's not just people from the local community who are angry and claim that Coca-Cola is threatening livelihoods. A retired hydrologist, Dr Achuthan Avittathoor, who lives in Kerala and has investigated the impact of the Coca-Cola factory on the surrounding communities' water, says: 'I want the truth. I am not against Coca-Cola. But it's about priorities. When there is a shortage of drinking water, this must come first.'

Coca-Cola maintains that it is not depleting ground water in Kerala. In a statement emailed to Christian Aid, the company blamed lower-than-usual rainfall in the past two years for the lowering of the villagers' wells. But the company's arguments have not impressed the High Court of Kerala. In December 2003, it ruled that Coca-Cola must stop drawing ground water from Plachimada and gave the company one month to find an alternative source of water.<sup>4</sup> Coca-Cola plans to appeal against this decision.

Coca-Cola says it is fully committed to corporate social responsibility. Its citizenship report, *Living*



Locals at the Plachimada well. Before the Coca-Cola factory opened, they say, the well provided a plentiful supply of clean water

*Our Values*, reviews the company's 'initiatives and accomplishments as a corporate citizen', and opens with the words: 'The Coca-Cola company exists to benefit and refresh everyone it touches. *This is our promise* [their italics].'

In India, where it has operated since 1993, Coca-Cola also, significantly, boasts that 'several of our bottling plants provide safe drinking water to local villagers through the organisation of water tankers, bore wells and hand pumps.'<sup>5</sup> But at Plachimada, according to those who sit outside the plant, the values the company is living are not those it lauds in its public statements. The company's 'promise' to 'refresh everyone it touches' has, they say, both literally and figuratively been broken.

Since the Coca-Cola factory opened in 2000, however, people living in the surrounding villages

have complained that their wells are almost empty, when previously there had been enough water for everyone. Their claims threaten to make a mockery of Coca-Cola's statement that: 'We will conduct our business in ways that protect and preserve the environment. We will integrate principles of environmental stewardship and sustainable development into our business decisions and processes.'<sup>6</sup>

Although water levels in some wells were dropping before Coke opened its gates, the factory's heavy use of water has, according to people living and farming near the factory, exacerbated the situation and made their lives dramatically more difficult. Many local women now spend much of their day walking to and from distant wells to collect water for drinking, cooking and bathing because nearby water sources have dried up. Most of the 1,200 or

so people who live around the factory gates have been affected.

When Dr Avittathoor visited the plant and saw the size of its wells, he estimated the company could use 1,100 cubic metres of water per day. Coca-Cola says the Plachimada plant pumps an average of 400 cubic metres a day and that it was told by the state of Kerala that it could draw up to 880 cubic metres per day.<sup>7</sup>

Oamjie John, a former Jesuit priest who now works as an activist in Kerala, says that the local wells are not only supplied by the immediate rainfall, but also by the aquifer, deep reserves of water which are fed by rainfall over thousands of years. These reserves would not, claims John, have dropped substantially after just two years of unusually poor rainfall – unless they were being depleted in other ways.

Local people also say that the quality of the water left in the wells has deteriorated. It has an unpleasant taste and chalky consistency, making it undrinkable and useless even for cooking. Vasanda, a 15-year-old tailor, says that rice cooked in water from the village well now becomes hard and unusable within a few hours, whereas traditionally the food would be prepared in the morning and kept until the evening meal, when it was still fresh and good to eat. 'I can't cook with the water from the wells. I have to get water from two kilometres away,' she says.

Worse still, many of those in communities surrounding the bottling plant told Christian Aid the same story during its investigation: while the water used to be fine to drink, now what is left at the bottom of their wells gives them severe stomach pains and headaches.

A study conducted by the district medical officer at a local health centre has confirmed the villagers' suspicions about water quality. It concludes: 'This water is unfit for drinking and the people should be

made aware of that.' It also includes the opinion of a water analyst: 'The hardness and chloride [level] of the water is very high. The water is unfit for drinking purposes.'<sup>8</sup>

Water samples have also been analysed by Dr Mark Chernaik, a biochemist from Environmental Law Alliance Worldwide (E-Law) – a network of American lawyers, scientists and environmental experts working to promote environmental protection. He found high levels of dissolved salts in the water, commensurate with rapid depletion of the aquifer.

'Water from the two wells would be classified as "very hard",' says Dr Chernaik. In his report, he concludes that: 'Use of this water for bathing and washing would cause severe nuisance and hardship.'<sup>9</sup>

### Refreshing Plachimada

*'We believe that being part of communities around the world is a privilege; one we must earn every day by making responsible, effective decisions and investments that benefit our company and our communities alike.'*<sup>10</sup>

Coca-Cola citizenship report 2002

While maintaining that it is not depleting the ground water, Coca-Cola has confirmed to Christian Aid that it is currently bringing water into the Plachimada plant from other sources. 'We took a conscious decision not to put stress on water sources at a single location and decided to source water from surplus areas,' said a company statement.<sup>11</sup>

Coca-Cola has also acknowledged – albeit by implication – that the surrounding villages have a problem; it has been paying for tankers to distribute drinking water to the area. This water comes from surrounding villages within four to five miles of Plachimada. According to Mumbai-based Christian Aid partner Vikas Adhyayan Kendra (VAK), which has been supporting the protest outside Coke's

gates, no survey has been conducted to ascertain whether people in these villages are also suffering water shortages.

Arychami Krishnan, president of the *panchayat* – the village-level council serving the area – is more vociferous about the company’s attempts to provide the communities living around the bottling plant with emergency water. ‘These are just symbolic gestures,’ he says. ‘They don’t distribute this water evenly. Some get more, some get less. This just creates a division.’

Villagers add that the water from the company does not come on a regular basis and, therefore, cannot be relied upon, even though Coca-Cola says its tankers visit the communities daily. There are also complaints that when water is provided, it is in insufficient quantities. Mylamma, leader of the sit-down protest, says that only six to seven litres per person is distributed, compared with the minimum of 15 litres needed for drinking, cooking, washing and sanitation per person, per day.<sup>12</sup>

Coke has publicly dismissed the protests and vigils of local people as the agitation of Marxists. This allegation was at one time posted on Coca-Cola India’s website, but following international media interest, has now been removed.<sup>13</sup> However, in its statement to Christian Aid, the company, while keen to point out that it is ‘sympathetic to the plight of the local community accessing water at a time of shortage in rainfall’, said: ‘The small number of protestors and their organisers are self-declared Marxists and communists and they are dealing with what they perceive to be a high-profile, American “capitalist” company.’

Villagers say that even during previous droughts, they did not run short of water and that water quality did not suffer in the way that it has since the bottling plant opened. However, there is no reliable historical data for water usage, quality or depletion that can substantiate their claims. It is now difficult to gauge

empirically to what extent Coca-Cola is to blame for the fall in water levels.

The only study carried out in the area prior to the opening of the plant was an environmental impact assessment (EIA), conducted by Hindustan Coca-Cola itself. However, despite local organisations’ persistent requests for a copy, the company has failed to produce one. Such a failure, states one lawyer, is illegal because according to the Kerala government, EIAs are public documents.<sup>14</sup>

Christian Aid asked Coca-Cola if it could see the EIA and was told that the document was part of a larger, commercially sensitive paper that the company was not prepared to copy. After several requests, Coca-Cola faxed a document to Christian Aid entitled *Report on the Integrated Groundwater Surveys Conducted in the Coca-Cola Factory Site at Moolathara, Chittoor Taluk, Pallakkad District, Kerala State*. The document is not dated.

Coca-Cola also says that it harvests rainwater and usually returns around 50 per cent of the water it uses. The company blames the *panchayat* for blocking its plans to expand rainwater harvesting. However, Dr Avittathoor challenges this reasoning. ‘The company claims that it is putting back into the aquifer through water harvesting. But whereas the pumping is from the deep aquifer, the recharge water goes to the gravity zone [the sub-soil level]. Therefore, pumping causes depletion of groundwater continuously,’ he says.

### **‘Conduct beyond question’**

*‘Our business is built on relationships – relationships based on respect for each other, for our partners, for the communities where we do business and for the environment.’*

Douglas N Daft, Coca-Cola chairman and chief executive

The Palakkad district in which the plant is situated has long been known as the ‘rice chest’ of Kerala. In the past, it has produced 35 per cent of the state’s rice. Coconuts, groundnuts and okra, as well as

### **Coke adds life**

*'The esteem in which Coca-Cola bottlers, customers, consumers, share owners, employees, suppliers and communities hold our company – even when we falter – speaks to the strength of our principles as business assets.'*

Douglas N Daft, Coca-Cola chairman and chief executive

Coca-Cola not only faces allegations and protests from local people angry at the depletion of their water supplies, it now stands accused of selling toxic waste from the factory – what the company calls 'biosolids' – to local farmers, billing it as fertiliser. Farmers using the waste have complained of skin infections and sores – as well as poor crop yield.

During a recent BBC investigation,<sup>15</sup> however, samples of the waste were taken to the UK and analysed by the University of Exeter. They were found to contain dangerous levels of carcinogen, cadmium and lead. David Santillo of the University of Exeter says the results are very worrying: 'The presence of high levels of lead and cadmium is of particular concern. Lead is particularly noted for its ability to damage the developing nervous system. Cadmium is especially toxic to the kidney, but also to the liver – it is classified as a known human carcinogen.'

Following the BBC's findings, the Kerala State Pollution Control Board (KSPCB) ordered a new study to be carried out on the waste and the well water. It found that, while cadmium and lead levels were not, in its view, hazardous, the waste should not be used as fertiliser.

However, as activist Oamjie John points out, the cadmium levels found in the samples the second time they were tested by the KSPCB (36.5mg per kg of dry weight) are significantly lower than the levels the chair of the KSPCB, Paul Thatchil, announced in August 2003 (202 mg per kg). 'This is a very large difference within just a couple of months,' says John.

Coca-Cola denies its 'biosolids' are toxic, although the company does not deny that they do contain both cadmium and lead 'within the limits prescribed by the State Pollution Control Board [in Kerala]'. However, following the BBC's investigation, the company stopped distributing them as fertiliser because of 'concerns in the minds of some of the local community'. Coca-Cola says it will now dispose of the 'biosolids' by treating them as hazardous waste.<sup>16</sup>

rice, have all been farmed there for generations, the work mostly carried out by the poorest people in Indian society – around 60 per cent of those living in the district are *adivasis*, or tribals.

This famed fertility has endured in spite of the area's historically low rainfall compared with the rest of

lush Kerala. Palakkad lies in a region known as a 'rainshadow' where precipitation is notoriously scarce. But now, since the Coca-Cola factory opened, crops have failed and jobbing agricultural labourers have been forced further afield to look for employment.



Ajit Muricken of Christian Aid partner organisation VAK believes the damage caused by the factory's water extraction will take a long time to put right. 'It takes many years for coconut trees to reach the stage when they yield,' he says. 'The lack of water is very likely to seriously affect the livelihoods of marginalised farmers for years to come.'

Even the State Ground Water Department of Kerala, which attributed the depletion of some of Plachimada's open wells to 'below normal rainfall in the area', noted: 'Since there is a drastic fall in rainfall, it is necessary to restrict the exploitation of groundwater at least till the status has improved.'<sup>17</sup> In other words, at the very least it is inappropriate for Hindustan Coca-Cola to be extracting water when people living around the factory have insufficient to drink.

The Kerala government actively encouraged Coca-Cola to open a plant in Plachimada, giving the company a 15 per cent rebate on its capital investment of Rs80 crore (£10m), because Palakkad is a poor, or 'backward', area. Such incentives have proved successful in attracting foreign investors. According to UN figures, flows of foreign direct investment in India rose from US\$0.4bn in 1990 to US\$5.5bn in 2002.<sup>18</sup> Coca-Cola says it has invested more than US\$1bn in India since 1993, making it one of the top investors in the country.

But a court action against Coke by the tiny *panchayat* of Palakkad is threatening one of the company's major investments in India – the Plachimada bottling plant. The Kerala High Court's ruling that Coca-Cola can no longer draw ground water from the area will come as a serious blow to the company and will cast doubt over the future of the plant. The court's ruling also challenges the company's statements that it has not contributed to the depletion of ground water and the findings of a report commissioned by the company and carried out by a retired scientist from the National Geophysical Research Institute in Hyderabad. The



Christian Aid/Liz Stuart

Mylama, the protest leader, parades with her placard outside the gates of the Coca-Cola factory in Plachimada

report claims there is: 'No field evidence of overexploitation of the groundwater reserves in the plant area.'<sup>19</sup>

Dr Achuthan Avittathoor is clear how water should be used when it is scarce. 'In times of shortage, the priority must be domestic need, then small industry, then essential large industries, and the non-essential industries must come last,' he says.

Perhaps Coca-Cola, and its subsidiary in Kerala, would do well to heed the company's own fine words. As Stephen J Heyer, Coca-Cola's president and chief operating officer, says in its 'Citizenship Report': 'Our goal as leaders is to unlock the enormous reservoir of talent, capability and passion that resides in the people of this system – to tear down the barriers that prevent us from working together in a collaborative environment to make great things happen for all of us.'

# From CSR to corporate social accountability

‘Companies might expect some UN standards to flop onto their desk and give them the answer, but no law does that. It provides general principles and should help inform companies how to respond in different situations.’

David Petrasek, expert on international human rights law and editor of *Beyond Voluntarism*

This report is about corporate social accountability. It is published against a backdrop of growing concern over corporate influence and with the conviction that CSR, as defined at the start of this report, is simply not sufficient to guarantee good business practice. Binding standards are needed to take corporate accountability beyond voluntarism.

The cases cited throughout this report support the conclusion that the voluntary commitment of business to sustainable development is insufficient to guarantee the rights of people and the environment in developing countries. Abuses have been numerous and continue to take place. At present, the affected communities and individuals are left with little prospect of redress or compensation.

**BAT** claims to give local farmers the resources and information they need, and stresses the importance of safeguarding their health and safety. But vulnerable Brazilian and Kenyan family farmers contracted to BAT’s subsidiaries, *de facto* employees who contribute significantly to the company’s profits, claim they are not receiving a fair return for their labour. Moreover, they report health problems that appear related to their tobacco cultivation. In the meantime, BAT’s annual reports register its social achievements, and the company is winning considerable kudos among socially responsible investors as a result.

**Coca-Cola** subscribes to high principles of ethical behaviour and stresses the importance of ‘using natural resources responsibly’. Yet thousands of miles away from the company’s headquarters, its

wholly owned subsidiary in India stands accused of depleting village wells in an area where water is notoriously scarce. Indeed, in this instance it has taken the actions of a local government – following sustained protest by the people of Plachimada – to begin the process of holding Coca-Cola to account.

**Shell’s** commitment to sustainable development has gone further than most – at least on paper. Shell is even prepared to publish the views of its critics.<sup>1</sup> But the company has failed to end the kind of practices in Nigeria that brought it so much strife in the mid-1990s. For poor people living among the oil fields of the Niger Delta, Shell’s pledge to sustainable development has made little difference. They are still plagued by oil spills and dysfunctional community-development projects, and their communities are divided by the company’s thirst for oil.

What this report shows is that self-regulation – a company’s own commitment to socially responsible practice – is a wholly inadequate means of ensuring good practice across all of the company’s operations, or of curbing the extreme cases of corporate transgression that Christian Aid and others have documented. The conduct of BAT, Shell and Coca-Cola in these specific cases is also a far cry from the way in which each would operate in their home countries – the UK, Holland and the US respectively – where laws and regulations are tighter and in general people are more able to seek redress.

Christian Aid is part of a growing network of NGOs, policy institutes, legal experts and development specialists arguing for an agreed set of legally

binding obligations for business. There is an emerging consensus about the possible scope of such obligations, exemplified by the UN Sub-Commission on the Promotion and Protection of Human Rights' development of a set of norms covering corporate responsibility. The time is ripe to move this consensus towards legal obligations. Companies could also benefit from clearer standards, which would allow them to better assess and contain risks.

There is evidence that this process is underway. Seven companies have already joined the Business Leaders' Initiative on Human Rights, which, although still voluntary, is an initiative that runs parallel to the UN norms.<sup>2</sup> Membership demands that companies follow the norms and, in doing so, open themselves up to future investigation and censure for failing to meet the standards the UN sub-commission sets down.<sup>3</sup> It is an acceptance of an international set of standards and the principle of corporate social accountability by a small group of multinationals.

Why should multinational corporations, together with their subsidiaries and affiliates, be legally required to abide by an international set of social standards?

One central reason, as a United Nations Development Programme report explains, is that: 'There are no mechanisms for making ethical standards and human rights binding for corporations.'<sup>4</sup> Aside from the lack of international procedures, resorting to national laws is often frustrated by corporate structures. Parent companies establish separate entities to operate in different countries, which has the effect of limiting their liabilities. It is then difficult to hold parent companies accountable for the misconduct of their subsidiaries, despite their close connection.<sup>5</sup> This effectively means that the current legal standards for multinationals are ambiguous and that avenues for redress when they are breached are limited.

But legally binding international standards will be no magic bullet. The more effective existing voluntary

agreements, the growth in socially responsible investing and the willingness of companies to report social and environmental damage are all essential bedfellows of regulation. Alongside mandatory standards, they would all yield tangible benefits.

In the meantime, communities in developing countries affected by corporations – living close to their operations or working for them – continue, in cases of abuse, to bear the costs. Voluntary CSR and self-imposed codes of conduct cannot, on their own, deliver accountability to these people, who are, by virtue of their poverty and vulnerability, the most important stakeholders of all.

Multinationals can bring huge benefits to the developing countries in which they invest. But these benefits are reduced or lost altogether if companies behave irresponsibly. The tragedy at the heart of this continuing story is not only that communities continue to be damaged – sometimes irreparably – by the actions of multinationals, and can rarely win redress. But also that each time a multinational investor fails to meet either its own code of conduct, or to comply with existing regulations because they are poorly enforced, a major opportunity for development is missed.

### **Ten reasons to regulate**

*'Historically, progress associated with corporate social and environmental responsibility has been driven, to a large extent, by state regulation, collective bargaining and civil society activism. Increasing reliance on voluntary initiatives may be undermining these drivers of corporate responsibility.'*

Peter Utting, Business Responsibility for Sustainable Development

In an age of increasing global interconnection, where huge multinational businesses have unprecedented reach, international, legally binding human rights and environmental rules are ever more necessary. The bewildering profusion of voluntary codes, agreements and commitments are insufficiently binding to change

company behaviour and do not offer sufficient legal redress to the victims of corporate abuse. Corporations themselves would benefit from the clear, unambiguous boundaries of a single set of universally agreed, legally binding standards.

Such standards are necessary for the following ten reasons:

### **1. Human rights and the environment need protecting**

Under current international law, it is primarily the responsibility of states to uphold human rights. But, as this report shows, multinational corporations can also abuse human rights and harm the environment, and many states often fail to uphold the rights of their citizens.

Clearly, multinationals have many reasons for behaving responsibly and according to national laws. If they fail to safeguard human rights – if their presence exacerbates conflict, for example – they risk damaging their reputation and alienating the communities in which they work. The onus, even with more effective regulation, is on businesses to pursue actively their responsibilities.

But something so fundamentally important as the protection of human rights and the environment cannot be a purely voluntary exercise. When a company's primary legal obligation is to make a profit for its shareholders, its human rights and environmental responsibilities must also be legally binding. If not, profit may override or even contradict the moral imperative to uphold human rights.

### **2. Multinationals need to be brought under international law**

In general, international companies do not fall under the remit of public international law. Since multinationals, by definition, operate in more than one country, this virtual absence of legal accountability at international level is a huge anomaly. It is a particular cause for concern given

the power multinationals wield in relation to many of the countries in which they operate.

This legal vacuum is beginning to be filled. The OECD's guidelines for multinational enterprises, although not fully legally binding, set a broad range of standards applicable to companies based in OECD countries and operating anywhere in the world. The guidelines carry the possibility of action against non-compliant companies.

Even more significantly, the UN norms are the first comprehensive attempt to take existing human rights principles and apply them to corporations. But this is work in progress and much international support will be needed if the norms are to become the new blueprint for corporate social accountability.

### **3. National legislation and regulation are insufficient**

A wide range of national laws are directly relevant to corporate social accountability, including labour laws, health and safety standards, consumer protection, factory-emission requirements, anti-trust provisions, and product liability. But while national laws can and do protect some communities from abuse by multinational corporations, they are often patchy and only partially applied – allowing companies to slip through the regulatory net.

In addition, national legislation differs hugely from country to country, both in the content of laws and in the degree to which they are enforced. In countries with fragile institutions and weak democratic accountability, even where national laws are strong on paper, there may be neither the political will nor the regulatory resources to enforce them. Furthermore, many multinationals currently operate in something approaching a 'regulatory void', with different parts of the company registered in different countries and only accountable to national laws and regulatory pressure.

Binding international standards for corporations would be significant in themselves in holding

companies to account and providing communities with a means of redress where national governments were unable or unwilling to do so. They are also likely to be 'translated' into national law, raising the standard of national regulation.

#### **4. Voluntary approaches are wholly inadequate**

Multinational companies that operate in developing countries often fail to live up to their own standards because, where national laws are weak, they may be able to engage in unacceptable conduct with impunity. The case of Shell in Nigeria shows how a company, in spite of extremely high self-imposed standards of social responsibility, has manifestly failed to change the way it operates.

Professionals in the field increasingly recognise the inadequacy of voluntary initiatives, along with the need to impose legally binding norms. For example, as the International Council on Human Rights Policy's (ICHRP) *Beyond Voluntarism* concludes: 'The relevance of international law and enforcement is beginning to be treated seriously. Indeed, there is a growing sense that voluntary codes alone are ineffective and that their proliferation is leading to contradictory or incoherent efforts.'<sup>6</sup> Similarly, the UN working group which developed the UN norms on the human rights responsibilities of companies acknowledges that an entirely voluntary system for codes of conduct is not enough, and anticipates that the international community will move towards the codification of binding norms backed by a range of implementation measures.

As one retail-sector source told Christian Aid, 'There are some companies who will only take social responsibility on board if they have to. You've got to use regulation to make them.'

#### **5. Business needs a level playing field**

Companies that are law abiding have little to fear from the law. Those that have a real commitment to social responsibility should welcome the application of higher standards to other companies.

International constraints would minimise the ability of companies to disregard fundamental values in order to undercut more scrupulous competitors and could provide companies with incentives to elevate their standards.

The argument for a 'level playing field' holds even greater implications at national level. Developing countries face particular pressure to attract and maintain foreign investment. Companies seek the best possible conditions, including tax breaks and other incentives, such as exemption from some local labour or environmental legislation, in choosing between alternative locations. Given their relatively weak position, developing countries may be tempted to erode legal protection for workers and the environment rather than risk losing the benefits of foreign investment. An international approach could ease the pressure on countries to lower their standards.

#### **6. The risk of legal action would influence markets and motivate companies to comply**

Damage to a company's reputation, through embarrassing campaigns or boycotts, can have a negative impact on its share price. The same is true of legal action. And a court case may mean customers, shareholders and, most importantly, the affected communities get to hear the full details of a company's actions as its documents are released into the public domain. The company may also be fined. An international framework of binding standards would therefore strengthen the incentive for companies to behave responsibly, because they would be risking legal action if they did not.

While socially responsible investment (SRI) is growing, motivating companies to make a clear commitment to social responsibility and report on their progress, socially responsible investors still make up less than one per cent of the overall investment market.<sup>7</sup> The vast majority are still mainly concerned about the value of their shares and the risks that may threaten the future value of



the company. Legally binding standards carry the threat of legal sanctions, encouraging investors to take account of a company's behaviour in the countries where it operates.

As Will Oulton, one of the founders of FTSE4Good, puts it, 'Mainstream investors are more and more interested in looking not just at the balance sheet but at whether companies have taken steps to manage the non-financial as well as the financial risks.'

#### 7. Companies have rights but few responsibilities

Corporations already have access to international mechanisms to help them resolve investment problems. For instance, a number of companies

have used the investor-state provision in the North American Free Trade Agreement to force changes in national legislation. As the ICHRP's *Beyond Voluntarism* puts it: 'Multinational corporations have benefited from the development of international law, and have lobbied to ensure that it protects their rights and interests.'<sup>8</sup>

But rights must always be balanced with responsibilities. And if the rights of corporations to resolve investment disputes are legally binding then their responsibilities should also be bound by international agreements.

#### **Outlawing bribery: a model for international regulation**

*'Under the convention, our major competitors will be obligated to criminalise the bribery of foreign public officials in international business transactions. The existing signatories already account for a large percentage of international contracting, but they also plan an active outreach program to encourage other nations to become parties to this important instrument.'*

President Bill Clinton, on the signing of a US Act to outlaw bribery and bring it into line with the OECD Bribery Convention, November 1998

On 21 November 1997, the OECD adopted a convention aimed at outlawing the bribery by business people of foreign public officials. Thirty-five countries have now ratified the Convention on Combating the Bribery of Foreign Public Officials in International Business Transactions, which demands each country enacts laws enabling the prosecution of their business people for bribery overseas. It is the first modern example of internationally agreed, legally binding regulation for non-financial reasons.

The UK signed the convention in the same year it was adopted, and it was ratified in 1998. But until 2001 the UK argued that a combination of existing legislation and common law provisions on corruption were sufficient to fulfil its legal responsibilities under the convention. But chastened by an OECD working group report, which urged the UK to 'enact proper legislation and do so as a priority',<sup>9</sup> the government met its obligations by including new anti-bribery laws in the Anti-Terrorism, Crime and Security Act of 2001. The Act came into force on 14 February 2002.

Transparency International (TI), the anti-corruption campaign, had argued long and hard for firm, international legal measures to curb bribery. 'Some companies were already working hard to combat bribery,' says Laurence Cockcroft, TI UK's chairman. 'But since the anti-bribery laws have been enacted, many more have come to TI for advice and are beginning to change their business principles to meet the regulations.'

## 8. The growing power of multinationals needs to be checked

Legally binding standards that reach across national borders are desperately needed to help curb the power of multinational corporations, as the case studies in this report indicate.

Multinationals in developing countries are operating in an environment where governments are desperate for foreign investment. They typically wield a huge amount of economic and political power in the countries where they operate; the host country's GDP is often smaller than the company's annual turnover.

In this environment, accountability is weakened and vulnerable communities are exposed to potential abuses that their governments may be unwilling or unable to check. This is one of the primary concerns of *Beyond Voluntarism*, which notes that: 'One function of law is to limit power by establishing enforceable rights and corresponding duties.'

## 9. Developing countries need incentives to improve laws

The debate about corporate accountability in developing countries is critical precisely because, while foreign investment has grown, the capacity of governments to monitor corporate activity, ensure standards and, where necessary, regulate has not. In the worst cases, governments may ignore or even

'The OECD convention is proving very important because it's defined the context in which business now has to work and has led to a wide interest in curbing bribery that wasn't there before,' says Cockcroft. 'Before the convention, the corruption issue had been notably absent from the CSR agenda.'

TI's work on the convention is far from over. Cockcroft believes that the new laws will only truly be tested when successful cases have been prosecuted. 'Then companies will see the immense risks they take if they don't put effort into compliance,' he says. 'Prior to the Factories Act [in 1833], only a handful of companies had taken steps to improve conditions for their workers. Few really changed until they were forced to by the risk of prosecution.'

The Factories Act example is also instructive because child labour and other dubious practices in British factories did not end merely because laws were put on the statute books. Visits by factory inspectors – an enforcement mechanism – were also critical. According to TI, this is what's missing from the UK's response to the OECD convention. 'The authorities – police, crown prosecution service and government departments – will all say they lack the resources to bring cases,' says Cockcroft. 'But the way the convention works means that the progress of the UK [and all signatory governments] is monitored by other OECD governments and by organisations like TI.'<sup>10</sup>

The OECD convention has paved the way to further expand the scope and reach of anti-bribery laws. On 31 October 2003, the UN's General Assembly adopted a UN convention against corruption. Once 30 nations have ratified this document, it will enter into force and bind the nations that have agreed to it.

commit human rights abuses in order to ensure multinationals can operate, as Christian Aid has shown in its campaigning work on the oil industry in Sudan.<sup>11</sup> If there was an international regulatory framework within which corporations had to operate, then it may have a knock-on effect for governments. For instance, if corporations published information about their payments to governments – as some are now doing – then those governments would have less room to keep what happens to the payments they receive a secret. Similarly, the threat of breaching legally binding human rights standards would discourage companies from colluding with repressive or corrupt governments.

Stella Amadi, a lawyer who has worked for several years with communities in the Niger Delta oilfields, believes the danger of collusion between governments and companies is one of the strongest arguments for international regulation. ‘There are lots of international treaties that Nigeria has signed but never enacted in law,’ she says. ‘If pressure is put on Nigeria from the outside [by multinationals and governments] you’re going to find that Nigerian law responds.’

#### **10. People harmed by corporate activity need redress**

The case studies presented in this report particularly highlight the suffering of individuals and communities as a result of certain forms of corporate wrongdoing. National laws are the key recourse for aggrieved parties. However, the lack of effective laws and judicial procedures, especially in developing countries, can impede redress. Lack of resources and legal counsel, excessive delays, and the relative power of the potential defendants – the multinationals – also hamper access to justice. Further complexities arise when both the company and the host government are colluding in abuses, or when there is official corruption, whether within government ministries or the judiciary.

Seeking redress where the multinational is based – usually an OECD country – is notoriously difficult. Moreover, efforts are underway to close off even those limited avenues, such as the US Alien Tort Claims Act (see section 1).<sup>12</sup>

An international approach to corporate regulation will help revitalise domestic law and countries’ ability to enforce it. An international framework could pave the way for a whole range of judicial and semi-judicial processes at an international level, too, beginning with national laws in developed countries offering redress to victims from the countries in which their multinationals operate. Communities that currently have little opportunity to voice their concerns before a multinational corporation begins operating and limited access to justice if their concerns are realised, might be able to seek both justice and compensation.

#### **Moving from social responsibility to accountability**

*‘We have lived so long at the mercy of uncontrolled economic forces, that we have become sceptical about any plan for human emancipation. Such a rational and deliberate reorganisation of our economic life would enable us, out of the increased wealth production, to establish an irreducible minimum standard which might progressively be raised to one of comfort and security.’*

Lord Harold Macmillan, UK Prime Minister 1957-63<sup>13</sup>

Christian Aid is advocating giving ‘teeth’ to the ethical commitments of companies by moving beyond corporate social responsibility, which does not and cannot go far enough, to corporate social accountability, to ensure that companies have a legal obligation to uphold international standards.

A transparent and rigorous system of evaluating, monitoring and verifying company performance against an agreed set of international standards, with a clear system of penalties when standards are breached, is urgently needed. This must be accompanied by a strengthening of national laws

and regulations, and a complementary system that provides those who suffer as a result of current corporate practice with the resources to gain redress. This requires new legislation to make companies legally accountable for international human rights and environmental standards wherever they operate and whatever they do. Standards must be made to apply across all of a corporation's operations, regardless of an operation's location or an employee's position.

In the first instance, the legal systems of the most powerful (largely OECD) countries – where many of the largest and most influential multinationals are based, and to where the bulk of their profits flow – must be changed to hold business accountable. A strengthening of OECD guidelines, along the lines of the OECD bribery convention, might be the first step towards achieving this and would encompass the most influential foreign investors in developing countries.

Existing voluntary initiatives to bolster the growing movement for corporate accountability also need to be strengthened and applied more rigorously. This involves making such initiatives transparent, well resourced, and independently monitored and verified, with a clear means of making complaints and a whistle-blowing system for those harmed by a company's activities.

### **Christian Aid's proposals**

Christian Aid believes that adherence to international human rights and environmental standards must be fundamental to a company's licence to operate, and that applying such standards to its subsidiaries and affiliates, and throughout its supply chain, is part of a company's social responsibility. Companies must show that they are using their commercial influence to ensure international standards are upheld within their sphere of operations. They must also demonstrate that they are neither knowingly complicit nor benefiting from human rights or

environmental violations.<sup>14</sup>

Christian Aid advocates a variety of different complementary regulatory mechanisms to ensure companies are legally bound to uphold their social and environmental responsibilities. Reporting, disclosure and monitoring are part of this process, given the importance of transparency and accountability.

Christian Aid also urges the introduction of penalties for failure to meet new standards, as well as improved access to redress for individuals and communities adversely affected by corporate activities. This approach may make parent companies more liable for the conduct of their foreign subsidiaries – human and environmental exploitation should not be allowed to exist in a regulatory void.

With an increasingly globalised economy must come increasingly global responsibilities. Multinational corporations – as some of the primary beneficiaries of globalisation – must be required to promote and protect social values. Moving towards a more comprehensive legal framework covering the social responsibilities of business is a complex process, which will take many years to realise. But the difficulty of the task should not deflect from its urgency. Christian Aid is especially concerned that the needs of poor people and poor communities become central to this process, as they will suffer most from its failure.

Christian Aid proposes action at different levels:

### **UK national level**

Christian Aid calls on the UK government to take a leading role on corporate accountability within the UK, EU and internationally by enacting legislation to help ensure that UK companies are held legally accountable for their actions overseas.

Christian Aid, as part of the Corporate Responsibility (CORE) campaign, is actively working

for a change in UK law so that UK-based multinational companies are held accountable for their social and environmental impact worldwide. Currently, the campaign is focusing on three changes to UK company law.<sup>15</sup>

**1. To adopt new legislation to make corporate social and environmental reporting and disclosure mandatory, obliging a company to supply:**

- information on the social and environmental impact of its overseas operations, supply chains, joint ventures and subsidiaries
- information on current, pending or past legal action against it
- details of payments to overseas governments and detailed financial information about its earnings from developing countries.<sup>16</sup>

**2. To give directors a 'duty of care' for communities and the environment, making them legally accountable for the actions of their companies overseas.**

**3. To make changes in the law that would enable people harmed by UK companies' operations overseas to seek redress in UK courts and to provide the necessary resources to allow them to do so.**

The UK also needs national legislation to establish an independent corporate responsibility board responsible for:

- setting minimum standards on reporting and monitoring them
- conducting official investigations into cases where allegations are made about breaches of agreed standards
- providing whistle-blowing mechanisms or confidential complaints procedures for those concerned about or adversely affected by company activities

- making legally binding rulings and imposing penalties on directors and companies that breach regulations
- introducing a financial penalty system for non-compliance also linked to removal from stock exchange listing.

As an essential step, the UK government must strengthen its support for the OECD guidelines so that they become more than just a code of conduct.

- Complaints made under the existing mechanism must be dealt with more transparently, within a specified period of time and with a concrete outcome of corrective action.
- Adherence to the guidelines should be mandatory for government procurement contracts.<sup>17</sup>
- The role of the individual in the UK's Department of Trade and Industry to whom complaints are brought should be reviewed and strengthened.

Another important area is the UN's human rights norms for multinational corporations and other business enterprises. The norms will receive further consideration before the UN Commission on Human Rights in spring 2004. Christian Aid strongly supports these norms and urges the UK government to promote them to businesses resident in or operating from the UK, and to investors, regulators and government departments.

### **European level**

The EU has a critical role to play in developing new international standards for business because its member states are home to some of the largest and most influential multinational corporations.

Moreover, company and commercial law is increasingly formulated within a Europe-wide context. The EU is also at the forefront of setting international human rights standards and protection, including relevant judicial procedures.

The EU must promote and support the development of corporate accountability by:



- strengthening its implementation and enforcement of existing corporate responsibility initiatives
- adopting legally binding human rights, environmental and social standards for EU companies operating overseas
- establishing a clear legal framework for social and environmental reporting among all Europe-based companies, with particular attention to their operations in developing countries
- promoting the UN norms among member states, as these could also help provide a blueprint for corporate accountability measures at the national and regional levels.

#### **International level, including multilateral organisations**

- OECD countries should strengthen the OECD guidelines, particularly on monitoring and enforcement, and work towards adopting them as a convention along the lines of the bribery convention.
- International financial institutions such as the World Bank must endorse corporate accountability measures in the form of the UN norms and the OECD guidelines, and should ensure that all rules for lending, both commercially and to governments, are dependent upon the fulfilment of these criteria.
- The UN should move forward on the development of an international legal framework for corporate accountability, to include key standards in areas such as the environment, labour, human rights, transparency and other social issues. The UN norms developed by the Sub-Commission on Human Rights should form the basis of this effort.
- The UN Global Compact should adopt the UN norms as binding and require member companies to subscribe to them and incorporate them in their business activities.

#### **Corporate level**

Multinational corporations are powerful drivers of international trade and investment, and have a critical role to play in upholding and advancing social and environmental standards, especially in developing countries. They should:

- adopt a code of conduct that includes human rights and environmental obligations, such as those outlined in the UN norms and the OECD guidelines
- apply the code of conduct to joint partners, affiliates, subsidiary operations and throughout all supply chains
- report details of payments to governments and the accounts of subsidiaries in developing countries
- provide sufficient resources to independently monitor and verify codes, including environmental-impact assessments and post-impact assessments
- ensure stakeholder involvement and consultation in project evaluation, with full public disclosure of the social and environmental impacts of major investments or projects
- provide whistle-blowing mechanisms or confidential complaints procedures for those concerned about or adversely affected by company activities
- investigate promptly and fully allegations of company malpractice, taking appropriate corrective and preventive measures, with full disclosure of findings
- managers of socially responsible funds should fully incorporate the OECD guidelines and the UN norms within their criteria for the evaluation of companies' performance.

# Notes

## Behind the mask: The real face of CSR

- 1 *The Middle Way*, Harold Macmillan, 1938.

## Unmasking CSR

- 1 Lord Richard Holme and Phil Watts, *Making Good Business Sense*, World Business Council For Sustainable Development, 2000.
- 2 A multinational corporation is defined as a company that owns or has a controlling interest in a subsidiary enterprise in one or more countries other than where the parent company is registered. As with any company they have a fiduciary duty to maximise profit for their shareholders and can be publicly or privately owned or a mixture of the two.
- 3 Speech by Rt Hon Stephen Timms to Business in the Community, Asda-Wal-mart HQ, (Leeds, 10 November, 2003).
- 4 DFID and Corporate Social Responsibility, *The Government's Role: Legislation and Voluntary Initiatives*, DFID, (September 2003), p 9.
- 5 WTO, Working Group on the Relationship between Trade and Investment, Communication from China, Cuba, India, Kenya, Pakistan and Zimbabwe, WT/WGTI/152, 19 November 2002.
- 6 *UN Draft International Code of Conduct on Transnational Corporations*, UN Doc. E/C.10/1984/S/5 (1984), 23 I.L.M. 626 (1984).
- 7 Judith Richter, *Codes in context: TNC regulation in an era of dialogues and partnerships*, Cornerhouse, 2002.
- 8 Throughout this report, the term 'human rights' is used in the context of the responsibilities of business and refers to the social aspects of business conduct, such as employment practices, or the social impact of business on the wider community, such as the relationship between companies and security forces. See the preamble to the Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights, UN doc E/CN.4/sub.2/2003/12/rev.2 (2003) for a wider discussion of how human rights responsibilities apply to business.
- 9 *PR Week*, 31 May 1996 and 15 January 1997.
- 10 *Survey of Teaching and Research in Europe on CSR*, International Centre for Corporate Social Responsibility/European Academy of Business in Society.
- 11 <http://www.worldbank.org/privatesector/csr/>
- 12 OECD, *Voluntary Approaches for Environmental Policy: Effectiveness, Efficiency and Usage in Policy Mixes*, OECD, (Paris, 2003), p 62.
- 13 UNCTAD World Investment Report 2001.
- 14 Ibid.
- 15 Sir Mark Moody-Stuart, 'Possibly the most dangerous man alive', *CorporateWatch News*, 15 January 2002.
- 16 CSR – a religion with too many priests? Interview with Michael Porter, European Business Forum, Copenhagen Business School, September 2003.
- [http://www.ebfonline.com/at\\_forum/at\\_forum.asp?id=421&linked=418](http://www.ebfonline.com/at_forum/at_forum.asp?id=421&linked=418)
- 17 MORI, *Reputation and Corporate Responsibility* (January 2003).
- 18 UNCTAD press release: <http://www.unctad.org/en/press/pr2875en.htm>
- 19 In many cases there is little or no evidence that multinationals contribute to poverty alleviation or to sustainable development. For instance, in the extractive industries, recent research shows that within 'resource-rich' countries the HDI is falling indicating a worsening in the conditions of poverty instead of an improvement. See: Michael Ross, *Extractive Industries and the Poor*, (Oxfam America, 2001).
- 20 <http://www.benetton.com/food/press/pressinfo/press/index.html>
- 21 <http://www.cleanclothes.org/companies/benetton.htm>  
The square bracketed sentence is an interpretation by the author of the meaning and significance of 'scientific subcontracting system'.
- 22 DTI, *Business and Society: Corporate Social Responsibility Report 2002*, quoting research from MORI, 2001.
- 23 Mike Tyrrel, HSBC Bank, 'From Backwater to mainstream,' *Directions* # 3, SalterBaxter and Context, 2003, p.5.
- 24 UK Social Investment Forum, see: <http://www.uksif.org/Z/Z/Z/inst/driv/index.shtml>
- 25 Mike Tyrrel, HSBC Bank, 'From Backwater to mainstream,' in *Directions* 3, p.5, SalterBaxter and Context, 2003.
- 26 UK Social Investment Forum, see: <http://www.uksif.org/Z/Z/Z/inst/driv/index.shtml>
- 27 'Trends in CSR Reporting', joint report, *Directions* 3, SalterBaxter and Context, 2003.
- 28 <http://www2.ftse.com/ftse4good/index.jsp>
- 29 Launched in 1999, the AA1000 framework is an accountability standard designed to improve accountability and performance by learning through stakeholder engagement.
- 30 Established in 1997 by the UN Environment Program (UNEP) and the Coalition for Environmentally Responsible Economies (CERES), the GRI attempts to provide a set of globally applicable guidelines for reporting on social, environmental and economic performance.
- 31 [www.bat.com](http://www.bat.com)
- 32 Collin and Gilmore, 'Corporate (Anti)Social (Ir)Responsibility: Transnational tobacco companies and the attempted subversion of global health policy', *Global Social Policy* 2 (3), December 2002, pp 354-360.
- 33 Interview with report author, Monday 10 November 2003.
- 34 B Burton, 'Tobacco company prepares its first social responsibility report', *BMJ*, 323, 1089 (10 November 2001).
- 35 Christian Aid was also invited to take part in BAT's 2001/2 stakeholder dialogue but declined because the organisation was in the middle of its investigation of BAT's contracting of farmers in Brazil. Christian Aid believed that to maintain its independence it was important to remain outside any formal dialogue with the company.

- 36 British American Tobacco, *The other report to society*, Action on Smoking and Health, (June 2002).
- 37 Interview with report author, Tuesday 18 November, 2003.
- 38 *Guardian* City Diary, 26 February 2003.
- 39 'Anti-pollution agency dishes more dirt on big business,' Vanessa Houlder, *Financial Times*, 31 July 2003, p 5.
- 40 [http://www.sustainability-index.com/djsi\\_pdf/djsi\\_world/CompanyBiographies/CBR\\_BPplc\\_04.pdf](http://www.sustainability-index.com/djsi_pdf/djsi_world/CompanyBiographies/CBR_BPplc_04.pdf)
- 41 See for example *Fuelling Poverty: Oil, War and Corruption*, (Christian Aid, London, May 2003).
- 42 'World Bank OKs Caspian pipeline financing', AP, 4 November 2003.
- 43 Friends of the Earth US, *BP: Beyond petroleum or beyond the pale*, briefing paper April 2003.
- 44 'BP awaits crucial backing from multilateral lenders on \$3bn Caspian oil pipeline project.' *Financial Times*, 28 October 2003.
- 45 Judiciary Act of 1789, codified at 28 U.S. Code Sec. 1350. See also [www.ccr-ny.org](http://www.ccr-ny.org) for updates on some of the ATCA cases.
- 46 ICC-UK, Contacts with *HM Government*, Annual Report 2002. <http://www.iccuk.net/annual/contacts.html>
- 47 As reported by the UK Social Investment Forum website: [www.uksif.org/JJ/Z/Z/lib/2001/xx/appg-ar100/section6\\_appx.shtml](http://www.uksif.org/JJ/Z/Z/lib/2001/xx/appg-ar100/section6_appx.shtml)
- 48 'Performance Measurement', *Financial Times*, 29 September 2003.
- 49 Research according to CSR Network, a UK consultancy, cited in 'Performance Measurement: Verifying the Facts is a Difficult Task', *Financial Times*, 29 September 2003.
- 50 See [www.unglobalcompact.org](http://www.unglobalcompact.org)
- 51 OECD, 'Review of National Contact Points', *OECD Watch*, June 2002-June 2003.
- 52 [136511] House of Commons *Hansard Written answers* for 11 November 2003 (pt 6).
- 53 Background Briefing: *Democratic Republic of Congo and the UN Panel, Rights and Accountability in Development (RAID)*, November 2003.
- 54 See: House of Commons *Hansard, Written answers*, 18 Nov 2003, Column 767W (continued).
- 55 OECD, 'Review of National Contact Points', *OECD Watch*, June 2002-June 2003.
- 56 Littlewoods drops ethical trading code. *Guardian*, 1 February 2003.
- 57 Speech to the Italian Corporate Social Responsibility Seminar, Rome, 29 April 2003.
- 58 *Beyond Voluntarism: human rights and the developing international legal obligations of companies*, International Council on Human Rights Policy, (November 2001).
- 59 Ibid.
- 60 *Key commitments, targets and timetables from the Johannesburg Plan of Implementation: Corporate Responsibility*, (Johannesburg, South Africa, September 2002).
- 61 UN Doc. E/CN.4/Sub.2/2003/12/Rev.2 (2003).
- 62 Christian Aid participated in the process of drafting the norms and made a full submission to the UN Sub-Commission in support of their adoption.
- 63 Status report on the draft human rights code of conduct, USCIB Corporate Responsibility Committee, circa September, 2003 (document undated).
- 64 *Beyond Voluntarism*, letter to the ICHRP, footnoted, 7 March 2001, p 16,
- 65 Ibid. Emphasis added.
- 66 Jack Straw, answering questions after his 'Local Questions, Global Answers' speech in Manchester on 10 September, 2001. Quoted in Friends of the Earth briefing paper on corporate responsibility: <http://www.foei.org/media/2002/0826.html>

### Sustained misery: Shell in the Niger Delta

- 1 [http://www.shell.com/home/Framework?siteId=royal-en&FC2=/royal-en/html/iwgen/how\\_we\\_work/zzz\\_lhn.html&FC3=/royal-en/html/iwgen/how\\_we\\_work/honesty.html](http://www.shell.com/home/Framework?siteId=royal-en&FC2=/royal-en/html/iwgen/how_we_work/zzz_lhn.html&FC3=/royal-en/html/iwgen/how_we_work/honesty.html)
- 2 Shell intends to expand production aggressively in Nigeria, mainly by means of offshore oil and gas projects operated by non-SPDC subsidiaries. Analysts estimate that Nigeria will account for 56 per cent of Shell's expansion in the period 2001-06, and that by 2006 will account for 15 per cent of Shell's total production (Morgan Stanley Equity Research, 'Focus on Nigeria', 17 February 2003). This report concentrates on SPDC, which operates all Shell's onshore oil production and transport.
- 3 Scott Pegg, 'The Cost of Doing Business: Transnational Corporations and Violence in Nigeria', *Security Dialogue* 30(4), 1999. p 473-484.
- 4 The financial case for socially responsible investment, the Cambridge Ethical Investment Campaign.
- 5 For information on the negative impacts on communities, in addition to documents referred to in other notes, see also US NGO Delegation, *Oil for Nothing: Multinational Corporations, Environmental Destruction, Death and Impunity in the Niger Delta*, 1999, and Stanley O Worgu, *Soaked in Crude Oil* (ND-HERO).
- 6 Fifty-five per cent of SPDC is owned by the Nigerian National Petroleum Corporation (NNPC), the state-owned oil company, 30 per cent by Shell, ten per cent by TotalFinaElf and five per cent by Agip. Shell is the operator. The SPDC People and Environment Report 2002 (hereafter 'SPDC 2002 report') is prominently displayed on the Shell Nigeria website, [www.shellnigeria.com](http://www.shellnigeria.com); both are quoted throughout this report.
- 7 The NDDC is the successor organisation to OMPADEC, a state-funded development agency for oil- and mineral-producing communities in Nigeria, closed down in 2000

- after a long history of corruption. NDDC has been supported by the UN Development Programme and other aid agencies that hope it will avoid its predecessor's problems – hopes that were dealt a blow in October 2003 when the organisation became the subject of a 257 million naira fraud investigation.
- 8 From testimony taken by Christian Aid during a visit to Umuechem, accounts published by Human Rights Watch and Nigerian NGO CSCR.
  - 9 Meeting between Shell and Christian Aid, 18 December, 2003.
  - 10 Human Rights Watch, Nigeria, *The Ogoni Crisis: A case study of military repression in southeastern Nigeria*, July 1995.
  - 11 Okonta and Douglas, *Where Vultures Feast*, p 138-139.
  - 12 Umuechem, 1 November, 1990, A Shell response to Christian Aid, emailed 23 December 2003.
  - 13 Human Rights Watch, *The Price of Oil*, chapter 8; Rivers State Government, *Conclusions of the Government of Rivers State on the Report of the Judicial Commission of Inquiry into the Umuechem Disturbances*; Umuechem Town Council, *The Umuechem Story* (Summary), August 2002.
  - 14 Correspondence between CSCR officials and Governor Odili, and CSCR officials and NDDC.
  - 15 Our researchers have seen copies of the reports on 2000 and 2001 start-ups, and a summary of the report on 2002 start-ups, which has not been published in full.
  - 16 Living Earth Foundation: *Scoping Study Trip to Nigeria*, report, (June 1996).
  - 17 Human Rights Watch, *Crackdown in the Niger Delta*, Okonta and Douglas, (May 1999); p 144-155.
  - 18 SPDC's 2002 report admits that the company's operations spilled 34,800 barrels of oil from 296 incidents in 2001 and 20,000 barrels from 262 incidents in 2002. Human Rights Watch believes that the oil industry in the Niger Delta (in which Shell is the largest company) may be publishing statistics that show spill damage at one-tenth of its real level; environmentalists Moffat and Linden make a similar estimate (*Price of Oil*, David Moffat and Olof Linden, 'Perception and Reality: Assessing Priorities for Sustainable Development in the Niger River Delta', *Ambio* vol 24 nos 7-8, December 1995). On the history of oil spills in the Niger Delta, see also Okonta and Douglas, p 80, 83, 85-86 and *Project Underground, Human Rights and Environmental Operations Information on the Royal Dutch/Shell group of companies 1996-1997*, p 5-7.
  - 19 Under Nigerian law, no compensation is due when a spill results from sabotage.
  - 20 Similar details of the case of Gbarantoru are to found in: 'The Niger Delta: No Democratic Dividend', Human Rights Watch, October 2002.
  - 21 *The Niger Delta: No Democratic Dividend*, Human Rights Watch, October 2002, p 15.
  - 22 Meeting between Shell and Christian Aid, 18 December 2003.
  - 23 Christian Aid researchers have seen copies of protest letters by the Nun River Keepers and Kalaingoni and Ayainbiri families, of the Memorandum of Understanding, the Oyadongha brothers' complaint to the police, and other documents; see also Human Rights Watch, *The Niger Delta: No Democratic Dividend*, p 15.
  - 24 On the history of violence and human rights issues, see Human Rights Watch, *The Price of Oil*; Andrew Rowell, *Green Backlash, Global Subversion of the Environment Movement*, (London and New York 1996), p 288-319. On the situation since 1999, see Human Rights Watch, *The Niger Delta: No Democratic Dividend* John Vidal, *Shell Fights Fires as Strife Flares in Delta*, the *Guardian*, 15 September 1999, 'Strife Flares in Oil Rich Delta', the *Guardian*, 22 September 1999, and 'Violence Returns to Niger Delta', the *Guardian* 15 April 2000; other press reports and interviews.
  - 25 See <http://www.hrw.org/wr2K1/africa/nigeria.html>
  - 26 An excellent introduction to the issues is Catholic Relief Services' *Bottom of the Barrel: Africa's Oil Boom and the Poor*. See also Michael Ross, *Nigeria's Oil Sector and the Poor*, UK DfID, May 2003; Saji Thomas and Sudharshan Canagarajah, *Poverty in a Wealthy Economy: the Case of Nigeria*, IMF Research Department, July 2002; and Xavier Sala-i-Martin and Arvind Subramanian, 'Addressing the Natural Resource Curse: an illustration from Nigeria', IMF Research Department, July 2003.
  - 27 See [http://www.transparency.org/pressreleases\\_archive/2003/2003.11.07.nigeria\\_oil\\_industry\\_revenue.html](http://www.transparency.org/pressreleases_archive/2003/2003.11.07.nigeria_oil_industry_revenue.html)
  - 28 See: *People and the Environment*, SPDC Annual Report 2002.
- ### Hooked on tobacco
- 1 [http://www.bat.com/oneweb/sites/uk\\_\\_3mnfen.nsf/vwPagesWebLive/BC11D5BA5017090D80256BF4000331E2?opendocument&DTC=20031117](http://www.bat.com/oneweb/sites/uk__3mnfen.nsf/vwPagesWebLive/BC11D5BA5017090D80256BF4000331E2?opendocument&DTC=20031117)
  - 2 The names of farmers currently working under contract to BAT Kenya have either been changed or omitted.
  - 3 *Power Relations in Tobacco Farming in Nyanza Province, Kenya*. Social NEEDS Network, 2003.
  - 4 Drs E A A Ogara, L A Ojode, 2003. Christian Aid thanks Dr Esther Arthur-Ogara for allowing us to use advance results from the forthcoming report.
  - 5 *Hooked on Tobacco*, Christian Aid, 2002.
  - 6 BAT website, [www.bat.com](http://www.bat.com)
  - 7 Elisha Oonga, Social Needs Network, 2000.
  - 8 See: *Hooked on Tobacco*, Christian Aid 2002, Chapter 2, 'Pesticides: Cause for Concern'.
  - 9 *Power Relations in Tobacco Farming in Nyanza Province, Kenya*. Social Needs Network, 2003.
  - 10 S Gehlbach et al. 'Nicotine Absorption by Workers Harvesting Green Tobacco', *The Lancet*, number 1, 1975.
  - 11 Drs E A A Ogara, L A Ojode, *Framework on Tobacco Control Readiness: Kenyan Tobacco Farmers and Leaf Suppliers*, University of Indiana 2003. Most farmers receive around 50,000 Ksh per hectare, but once the BAT loan is deducted they are left with about 20,000 Ksh. Then, once labour –

costed at an average farm worker's daily rate for rural Kenya – fuel, transportation and other costs are factored in, farmers lose on average 40,000 Ksh. Therefore, according to the study, farmers are often 20,000 Ksh out of pocket. Christian Aid thanks Drs Esther Arthur-Ogara and Lucy Ojode for allowing it to use advance results from the forthcoming report.

- 12 See *Hooked on Tobacco*, Christian Aid 2002.
- 13 BAT Kenya's figures show that tobacco earns an average of 66,000 Ksh from the 1200 kgs grown per hectare. This means farmers can expect to earn an average of 55 Ksh per kg of tobacco, which, at a current Ksh/US\$ exchange rate of 76/1 is equivalent to US\$0.72. BAT Kenya's figures also show that the farmer is left with an average of 27,282 Ksh once the cost of the inputs sold by the company are deducted.
- 14 'Golden Leaf, Barren Harvest – The Costs of Tobacco Farming', *Tobacco Free Kids*, November 2001.
- 15 Jane Kariuki, 'Tobacco Cultivation Threatens Food Security in Kenya', Panos Features, May 2000.
- 16 [http://www.bat.com/oneweb/sites/uk\\_\\_3mnfen.nsf/vwPagesWebLive/939562FB136BD60180256BF4000331DA?opendocument&DTC=20031103](http://www.bat.com/oneweb/sites/uk__3mnfen.nsf/vwPagesWebLive/939562FB136BD60180256BF4000331DA?opendocument&DTC=20031103)
- 17 *The crop protection and livestock Act* (CAP 321), Kenya Gazette Supplement No. 42, 29 July 1994.
- 18 Christian Aid gratefully acknowledges the help given by Preeti Patel and Jeff Collin at the London School of Hygiene and Tropical Medicine, in particular their generosity in allowing Christian Aid to cite their work before publishing. All Guildford Depository document references are taken from *British American Tobacco, Kenya and the Politics of Tobacco and Development*, Preeti Patel, Jeff Collin and Anna B Gilmore, Centre on Global Change and Health, London School of Hygiene and Tropical Medicine.
- 19 Fax from Norman Davis to M F Broughton, Subject: Meeting with President Moi, 17 November 1994, file no BB0306, box no XMA0025, bates no 500045215. Emphasis added.
- 20 Letter from T P G McDowell to R S Hartley, Re: Mastermind Tobacco Company Pirating Fire-Cured Tobacco Grown by BAT Kenya Registered Farmers, 7 September 1990, BAT, Guildford Depository, bates range 301611620/1621.
- 21 J W Drummond, 1991, Company Plan 1992-1996; BAT Kenya Limited – Kenya, Leaf, 23 October, BAT, Guildford Depository, bates no 301536249-6251.
- 22 R S Hartley, 1991, Letter to T P G McDowell Re: BAT Kenya Company Plan, 28 November, BAT, Guildford Depository, bates no 301536123-6127. Emphasis added.
- 23 [http://www.bat.com/oneweb/sites/uk\\_\\_3mnfen.nsf/vwPagesWebLive/BC11D5BA5017090D80256BF4000331E2?opendocument&DTC=20031109](http://www.bat.com/oneweb/sites/uk__3mnfen.nsf/vwPagesWebLive/BC11D5BA5017090D80256BF4000331E2?opendocument&DTC=20031109)
- 24 The PRONAF is a stream of credit intended to help family farmers grow food. It was not originally intended to be claimed for growing tobacco.

## Living its values: Coca-Cola in India

- 1 <http://www2.coca-cola.com/citizenship/index.html>
- 2 The plant is owned by Coca-Cola's wholly owned Indian subsidiary Hindustan Coca-Cola Beverages Private Limited (HCCBL).
- 3 A traditional measure. One mola is approximately the length from fingertips to elbow.
- 4 BBC World Service News, 16 December 2003.
- 5 [http://www2.coca-cola.com/ourcompany/cfs/cfs\\_include/cfs\\_india\\_include.html](http://www2.coca-cola.com/ourcompany/cfs/cfs_include/cfs_india_include.html), accessed in July 2003. The Coca-Cola website for India has now been radically changed.
- 6 *Living our values*, Coca-Cola Citizenship Report, 2002.
- 7 Coca-Cola email to Christian Aid, 17 December 2003.
- 8 The report analysed water samples taken from three wells near the factory. Report dated 13 May 2003.
- 9 *Interpretation of results of water sample analysis performed by Laboratory Services Division of Sargam Metalas Private Ltd*, Dr Mark Chernaik, US environmental NGO E-Law, 5 March, 2002. Chernaik also consulted Phil Richerson, a hydrologist with the Oregon Department of Environmental Quality.
- 10 *Living our values*. Coca-Cola Citizenship Report, 2002.
- 11 Coca-Cola email to Christian Aid. 17 December 2003.
- 12 15 litres of fresh water per person per day is generally considered to be a necessary minimum to meet drinking and sanitation needs alone according to the Sphere Project's *Humanitarian Charter and Minimum Standards in Disaster Response* handbook.
- 13 The new Coca-Cola website for India can be accessed at <http://www.myenjoyzone.com/index1.php3>
- 14 *Notification Requiring Environmental Impact Assessment for certain projects in Kerala*, issued by the government of Kerala, 13 January 1978.
- 15 *Face the Facts*, broadcast 25 July, 2003, BBC Radio 4. [http://news.bbc.co.uk/2/hi/south\\_asia/3096893.stm](http://news.bbc.co.uk/2/hi/south_asia/3096893.stm)
- 16 Coca-Cola email to Christian Aid. 17 December 2003.
- 17 *Report on the ground water extraction in the Coca-Cola factory, Plachimada, Palakkad district and water level trends in the area*, Ground Water Department, government of Kerala, January 2003.
- 18 However, during the same period foreign direct investment flows to China rose from US\$3.5bn to US\$52.7bn, and several liberal commentators, including the IMF, want foreign direct investment to be deregulated much faster in India. There are still strict ownership rules, for instance foreign ownership of between 51 per cent and 100 per cent of equity still requires a long procedure of government approval.
- 19 *Water management at the Coca Cola plant at Moolathara village, Palakkad district, Kerala State, India*, R N Athavale, National Geophysical Research Institute, (Hyderabad, India, October 2002).



### From CSR to corporate social accountability

- 1 See Tell Shell: <http://www.euapps.shell.com/TellShell/>
- 2 An initiative launched in December 2003, with the intention of finding 'practical ways of applying the aspirations of the Universal Declaration of Human Rights within a business context and to inspire other businesses to do likewise', focusing on ways of working with the UN norms. The seven companies involved in this initiative are: ABB, Barclays, MTV Europe, National Grid Transco, Novartis, Novo Nordisk and The Body Shop International.
- 3 Companies set to work with UN ethics code, *Financial Times*, 9 December 2003.
- 4 UNDP, *Human Development Report*, 1999, p 100.
- 5 Halina Ward, *Corporate accountability in search of a treaty? Some insights from foreign direct liability*, Briefing paper, International Institute for Environment and Development, May, 2002.
- 6 International Council on Human Rights Policy, *Beyond Voluntarism: Human Rights and the Developing International Legal Obligations of Companies*, November 2001.
- 7 The International Financial Services London, Fund Management Report 2003, estimates that the UK investment market as a whole, including shares, bonds and other investments, is worth £2.6 trillion. The UK Social Investment Forum estimates that socially responsible investment is currently worth £225 billion.
- 8 *Beyond Voluntarism*, International Council on Human Rights Policy, November 2001.
- 9 <http://www.oecd.org/dataoecd/12/50/2498215.pdf>
- 10 Quotes from an interview with report author, 24 November 2003
- 11 See *The Scorched Earth: Oil and war in Sudan*, Christian Aid, March 2001.
- 12 While it must be acknowledged that the law is problematic, no alternatives are forthcoming.
- 13 *The Middle Way*, Harold Macmillan, 1938.
- 14 Evaluating the ways in which a company may or may not be involved in complicity... and what constitutes 'direct', 'indirect' and 'silent' complicity is defined in a paper by Clapham and Jerbi (2001) which informs interpretation.
- 15 Next three points relate to the Core Bill – see [www.corporate-accountability.org](http://www.corporate-accountability.org) for more information.
- 16 And to this end to support *Publish What You Pay and the Extractive Industries Transparency Initiative*, (EITI).
- 17 This policy has already been adopted by the Dutch government.

## **Acknowledgments**

This report was written and edited by Andrew Pendleton with Sharon McClenaghan, Claire Melamed, Isabella Bunn and Daniel Graymore. The introduction was written by John Davison. Edited by Andrew Jacques. Designed by bwa.

**Unmasking CSR** was researched and written by Andrew Pendleton with help and comments from Sharon McClenaghan, Claire Melamed, Isabella Bunn and Daniel Graymore. With thanks to David Petrasek and Alan Roberts.

**Sustained misery: Shell in the Niger Delta** was researched and written by Simon Pirani. With thanks to Tim Concannon, Bronwen Manby at Human Rights Watch, Environmental Rights Action and the Centre for Corporate and Social Responsibility in the Niger Delta and a large number of individuals who gave invaluable help in preparing this section of the report.

**Hooked on tobacco: BAT in Kenya** was researched and written by Judith Melby and Andrew Pendleton. With thanks to Joe Asilla, Dr Esther Arthur-Ogara, Dr Lucy Ojode and Moema Hofstaetter. Dedicated to Elisha Oonga.

**Living its values: Coca-Cola in India** was researched and written by Liz Stuart. With thanks to Vikas Adhyayan Kendra.

**From CSR to corporate social accountability** was researched and written by Sharon McClenaghan and Andrew Pendleton with help from Isabella Bunn.

Special thanks to Jeff Collin and Preeti Patel at the London School of Hygiene and Tropical Medicine, Daniel Graymore and Mark Curtis.

**Christian Aid works in some of the world's poorest communities in more than 50 countries. We act where the need is greatest, regardless of religion, helping people to tackle the problems they face and build the life they deserve. At home and overseas, we campaign to change the structures that keep people poor, challenging inequality and injustice.**

**Christian Aid**

**London:** PO Box 100, SE1 7RT **Belfast:** PO Box 150, BT9 6AE

**Cardiff:** PO Box 21, CF14 2DL **Edinburgh:** PO Box 11, EH1 1EL

**Dublin:** 17 Clanwilliam Terrace, Dublin 2

**Website:** [www.christianaid.org.uk](http://www.christianaid.org.uk)

Registered charity number 258003 Republic of Ireland charity number CHY6998 F905