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Making Codes of Corporate Conduct Work

MANAGEMENT CONTROL SYSTEMS AND CORPORATE RESPONSIBILITY

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Making Codes of Corporate Conduct Work: Management Control Systems and Corporate Responsibility

February 2001

This paper will form part of a forthcoming OECD publication entitled ***Corporate Responsibility: Private Initiatives and Public Goals*** *which will be published in May 2001. The contents have been discussed by the Committee on International Investment and Multinational Enterprises and the publication will be released on the authority of the Secretary General of the OECD.*

Organisation for Economic Co-operation and Development 2001

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Making Codes of Corporate Conduct Work:
Management Control Systems and Corporate Responsibility

Introduction

1. Many companies have implemented programmes that help them to respond to societal concerns about the economic, social and environmental impacts of their activities. These help them to manage their compliance with legal or regulatory requirements and their response to "softer" forms of social control of business. These voluntary initiatives by companies have included public statements -- codes of conduct -- in which they commit to behavioural norms in a variety of areas of business ethics (e.g. environment, anti-corruption, etc.). Some companies have backed these up with management systems designed to help them respect their commitments. Indeed, codes of conduct often represent just the first step in a process of improving management processes in support of legal and ethical compliance. Subsequent steps include the implementation of systems of management control designed to promote compliance. These systems typically employ a range of tools including accounting and record keeping systems, training, hierarchical controls, compliance offices, whistle-blowing facilities, hiring practices, production controls, internal incentive systems and both internal and external audits. Management control, of course, is a core business function and exists as a separate, well-established discipline within the management field. The extension of this discipline to business ethics and its partial merging with legal risk management has been one of the more important developments in international business of the last two decades.

1bis. The efforts undertaken by businesses in the area of legal and ethical compliance do not exist in a vacuum. They are closely linked to broader pressures from regulators, law enforcement authorities, shareholders, customers, employees and NGOs (see Chapter 5 for a review of the influence of public policy on private initiatives). It is important to emphasise the critical role that these broader pressures play in determining these initiatives' effectiveness -- that is, their capacity to change the way companies conduct their day-to-day operations. The management systems businesses employ in their legal and ethical compliance programmes merely translate broader pressures into business practice, but they have no meaning beyond these pressures. If private initiatives are successful in changing business conduct, this testifies not only to the competence and the managerial expertise of businesses concerned, but also to the ability of societies to formulate and channel reasonable pressures for appropriate conduct. Corporate responsibility initiatives by companies -- whose main implementation tools are reviewed in this chapter -- have an important and distinctive role to play as part of a broader system of private and public governance. However, just as an airplane cannot fly unless both of its wings are functioning properly, these private initiatives cannot be expected to work if other parts of the system (including law and regulation) work poorly.

3. This chapter describes the management tools companies use to make good on the commitments set forth in their codes of conduct. It is based on the OECD inventory of corporate codes and on direct contacts with firms and NGOs. The codes inventory has the advantage of providing a broad overview of the practices of a large group of companies dealing with diverse ethical and legal compliance issues. One disadvantage is that the information in the inventory reflects only on the public material available in the codes. Ideally, this should be augmented with a more in-depth examination of what particular companies are doing. The present discussion seeks only to draw out the broad contours of corporate compliance and

implementation efforts and to try to understand how these relate to particular compliance challenges (e.g. bribery, environment and control of supply chain).

4. The paper addresses the following topics in three sections:

- Managerial approaches to implementing voluntary codes
- Organisations that provide external verification services
- Monitoring or auditing standards

The final section draws conclusions on the need for future development of the intangible infrastructure -- especially continued work on the development of widely accepted standards for business conduct, management systems, audit and reporting -- to enhance the effectiveness of private initiatives in the area of corporate responsibility.

Management approaches to implementing voluntary codes -- no "one size fits all" solution

5. This section looks at how firms implement their codes of conduct, using Secretariat analysis of the statements made about implementation in the codes of 118 individual companies [1]. The companies are as diverse in many ways as the true "population" of multinational enterprises. Many of the codes in the inventory have been issued by huge, global firms that employ many thousands of people in dozens of countries (e.g. IBM, Shell). Other issuers are retailers (e.g. H&M, The Gap, Body Shop, C&A, Marks and Spencer) whose names are household words in some OECD countries. These firms tend to issue codes of conduct that seek to control labour management practices in supply chains consisting of tens or hundreds of production sites. Finally, the firms in the inventory straddle all three economic sectors -- primary production (e.g. mining, petroleum), many branches of industry and manufacturing (e.g. consumer goods, high technology materials, heavy equipment) and many services (e.g. finance, retailing, consulting etc.). Thus, the implementation challenges these firms face differ in many respects: the types of issues they deal with, the complexity of their operations, the resources they have to spend.

6. The Secretariat has looked at discussions in codes of conduct of the various management tools that are used to control outcomes. They include: internal monitoring, reports to Boards of Directors, use of compliance manuals, whistle-blowing facilities, signatures of directors, training, periodic compliance reviews by managers, employee signatures, disciplinary action, internal monitoring and external verification. Financial reporting and record keeping (which these firms would normally undertake as part of their overall financial control function) are also counted as an implementation measure when they are explicitly referred to as such in the code. Annex A provides detailed definitions of these attributes as well as sample texts.

7. The results of this analysis are presented in Figures 1 and 2. These figures reflect a division of the 118 company codes into 2 sets. The first set -- shown in Figures 1a and b -- covers the 96 codes that are addressed to the company itself (that is, the code establishes norms for the company's own behaviour). Figure 2 covers 22 codes that are addressed to suppliers (that is, firms that are not owned by the company issuing the codes). These codes are mainly issued by retailers and, though they often mention other issues, they tend to focus on core labour standards (child labour, forced labour, working conditions etc.). Figures 1a and b show the frequency of management techniques mentioned in codes making two types of ethical commitment: fighting bribery (44 codes) and environmental stewardship (72 codes)[2]. They also show the frequency of management practices mentioned in the total sample of 96 company codes. Since it is based on only 22 codes, Figure 2 does not break up the analysis by issue area[3]. It shows the percentage of the supplier codes that mention a particular management practice.

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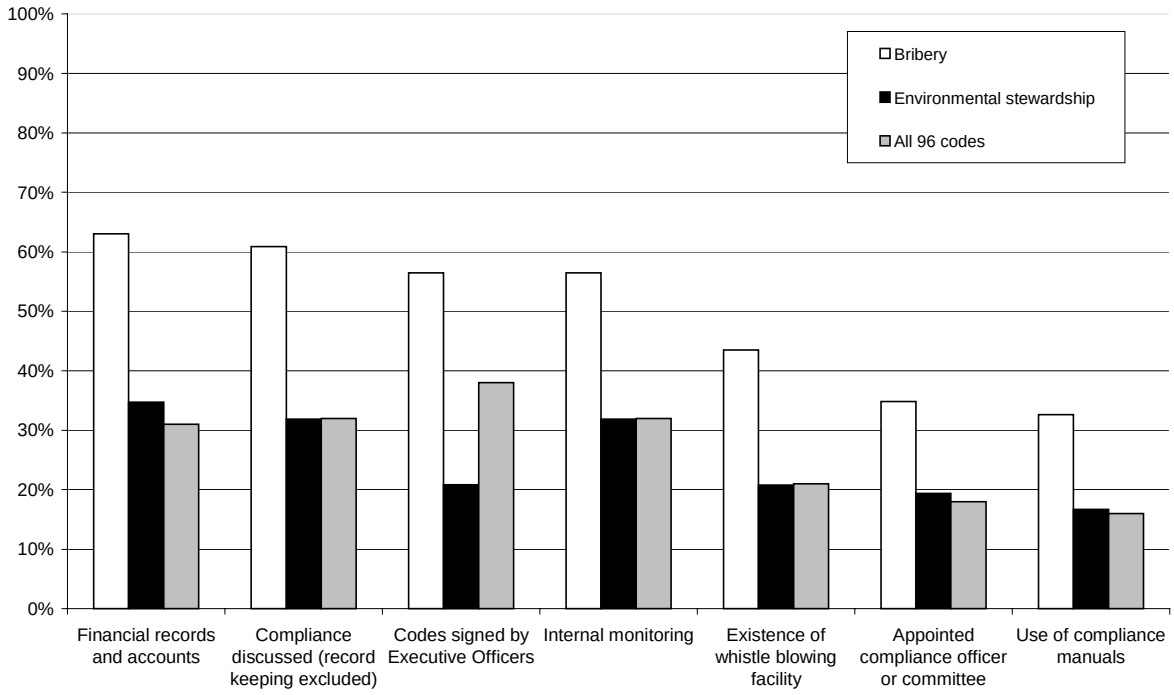
1. The complete OECD inventory has 256 codes. 138 of these codes have been issued by something other than an individual company (i.e. by NGOs, by business associations, by intergovernmental organisations).

2. Notice that there is some overlap between the set of bribery codes and the set of environmental codes; that is, some codes mention both issues.

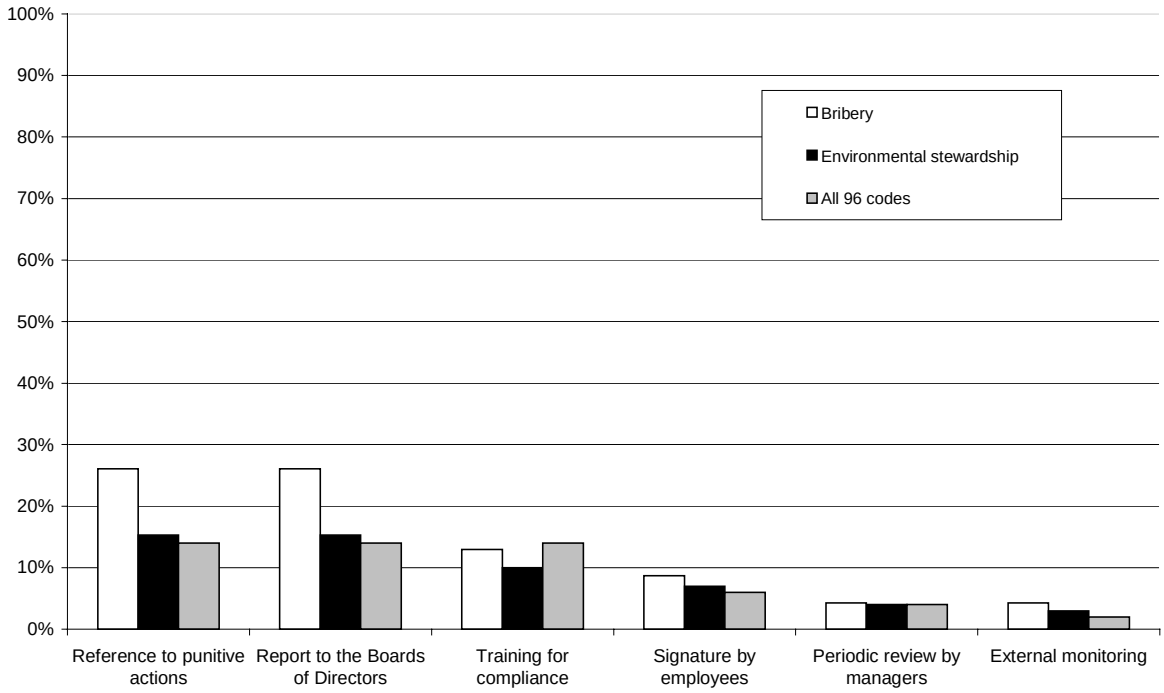
3. This would have meant that some issue areas would hardly have been represented. For example, only two of the supplier codes mention bribery.

Figure 1a. **Implementation in the 96 codes of conduct addressed to the firm itself**
(as a percentage of codes mentioning a particular implementation measure)



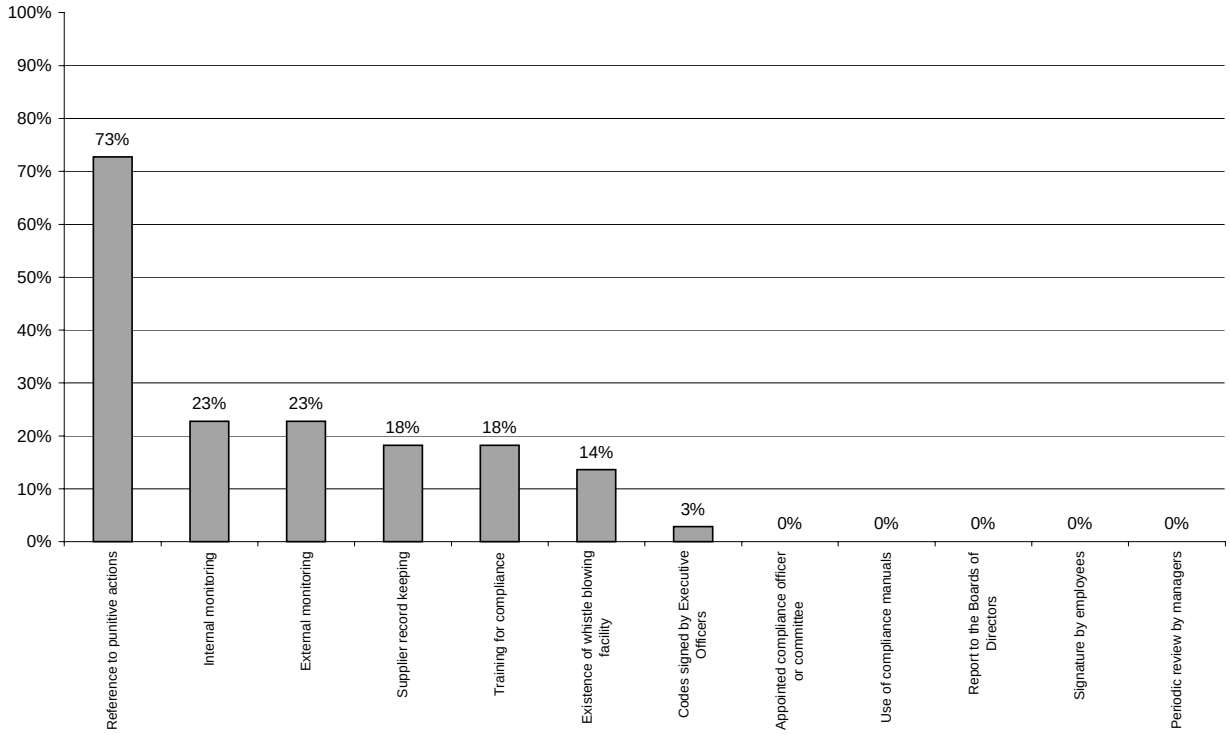
Source: OECD

Figure 1b. **Implementation in the 96 codes of conduct addressed to the firm itself**
(as a percentage of codes mentioning a particular implementation measure)



Source: OECD

Figure 2. **Implementation measures in the 22 codes of conduct addressed to suppliers**
(as a percentage of codes mentioning a particular implementation measure)



Source: OECD

8. As shown in Figure 1a, 32 per cent of all codes that are addressed to the company itself discuss implementation in one way or another. However, the bribery codes are much more likely than other codes to discuss implementation: 60 per cent of the bribery codes mention it , while only 32 per cent of the environment codes do . The bribery codes also show a distinctive pattern of deployment of compliance tools. They are about twice as likely as other codes to mention financial records and accounts as an implementation measure and they are much more likely to mention a range of more specific internal measures. The most common of these are internal monitoring by compliance officers (mentioned in almost 60 per cent of the bribery codes, compared with 30 per cent of the environment codes), whistle-blowing (44 per cent for bribery and 20 per cent for environment). The signing of codes by executive officers is a feature of 43 per cent of the bribery codes and 20 per cent of the environment codes. Use of compliance manuals (i.e. written training material) is another relatively important implementation tools mentioned in the codes. On the other hand, it is quite rare for these codes -- regardless of the ethical issues they address -- to mention external (non-financial) monitoring as a technique of management control. Only 2 of the 96 codes mention it.

9. The supplier codes in Figure 2 point to a different pattern of deployment of compliance tools . As noted earlier, these codes tend to focus on labour management issues raised in connection with retailers' outsourcing activities. Some of the tools that were relatively important for the codes addressed to the company itself (e.g. compliance manuals and compliance manuals) are not mentioned in any of the supplier codes. In these codes, the most common measure is threat or "reference to punitive action". This means that the code threatens some adverse economic consequence if the code is not complied with. About three-quarters of the supplier codes refer to punitive action (most often, termination of contract). Indeed, the overt use of threatening language is an important qualitative difference between the codes addressed to the company itself and those addressed to suppliers.

10. The supplier codes also show relatively heavy reliance on two types of verification. The first -- mentioned by 23 per cent of the codes -- is undertaken by the firm issuing the code (by sending one of its employees to examine conditions in the production site). Hence, this monitoring is "internal" to the outsourcing relationship, but still has some of the difficulties associated with external monitoring. That is, someone from outside the production site must assess on the basis of records, interviews and observation what working conditions at the site are like. The second type is external or third party monitoring, which is also mentioned in 23 per cent of the supplier codes. This is monitoring by an organisation that is "independent" of both the issuing firm and the supplier. Obviously, external monitoring is more important in the supplier codes than it is in the codes addressed to the issuing company itself since it is 10 times more likely to be mentioned. However, the codes generally avoid stating in direct terms that third party monitoring will take place. They are more likely to reserve the right to send in either their own employees or third party monitors, as they see fit[4].

11. This analysis suggests that there is no "one-size-fits-all" approach to implementation and that firms tend to tailor implementation measures to the type of commitment and to their own circumstances. In some areas, external verification may not be used because it might not be very useful -- for example, in areas where infractions may be unobservable to anyone except the direct parties to a transaction. This is likely to be the case in the bribery and competition areas, where wrongdoing often involves elaborate accounting and institutional subterfuges co-ordinated among several wrongdoers. Financial audits by outsiders, designed to ensure high quality records and accounting systems, can eliminate the easier forms of wrongdoing in these areas (and is especially important to prevent the cruder forms of bribery). But a wider portfolio of management techniques is needed to prevent more concerted and sophisticated wrongdoing (e.g. in bribery, the use of intermediaries and sophisticated money laundering operations). That is why some of the management systems addressing bribery and other types of economic crime (e.g. ECS 2000) emphasise not only the importance of high quality financial accounts and record keeping but also of various internal measures including whistle-blowing facilities, internal compliance and hierarchical controls.

13. In contrast, retailers that are trying to respect core labour standards in their outsourcing operations cannot use many of these internal measures since they do not own their outsourcing sites. Also some of them probably wouldn't work anyway. For example, whistle blowing is recognised to be less of an option in a context where workers are in an inherently weak position. Such workers may be extremely poor and not supported by a social safety net and therefore may be less able to risk a cut in earnings if their

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4. The following is typical of the language adopted in the codes. For example the following language appears in the code of a general retailer: "Suppliers and their subcontractors must make their facilities available at all times for inspections by [company name] representatives or independent inspection firms retained by [company name]." In this study, this language resulted in this retailer's code being scored for both "internal monitoring" (because the company's "representatives" might inspect the site) and for "external monitoring" (because "independent inspection firms" might become involved).

employers "punish" whistle blowing. Also, they may not be protected by the transparency and external monitoring afforded by formal worker representation. In such situations, external verification may be one of the few feasible options. However, external verification of conditions in the supply chain is also often difficult because record keeping may be rudimentary, interviews with employees may be coloured by employee fears of retribution and the firm may be on "best behaviour" for the inspection. The effectiveness of external verification of the supply chain also appears to suffer from the lack of consensus on the scope, concepts and terms of such verification (see discussion of audit standards below).

15. In determining the mix of measures they use to implement their codes, firms balance cost, effectiveness and the perceived costs of failure to comply with their own codes (e.g. loss of reputation or brand capital; litigation) or with the law (legal costs, punishments, fines). Many outside parties, looking at firms' voluntary efforts, have expressed a strong preference for external verification and are sceptical that firms can effectively monitor their own activities. However, a more comprehensive look at firms' compliance and implementation techniques underscores the fact that no single implementation measure -- including external monitoring -- will be adequate to support compliance in all the areas covered in corporate codes. Governments themselves have recognised the inherent limitations of external monitoring (even when done by public authorities) and, in some areas, are making firms' internal, compliance measures the first line of defence in public regulatory and legal enforcement strategies (see Chapter 5). Each compliance and implementation measure has distinctive advantages and disadvantages, uses and misuses. Effective management strategies for compliance and implementation will generally involve a complex mix of measures and tools tailored to the issue at hand and knowledge of how to deploy these tools is part of the growing mass of compliance expertise that these codes and their associated management systems reflect. However, firms, governments, and NGOs are still in the process of learning about which mixes work best for different types of compliance problems.

Organisations that provide external verification services

16. A number of organisations provide external verification services. These include global auditing firms, more specialised external monitoring firms and NGOs, firms specialising in ISO quality certifications that have recently been branching out into ISO environmental certifications, security and specialised risk assurance firms. The Box quotes from a more detailed description of these organisations provided by "Businesses for Social Responsibility (BSR)", a business association that specialises in helping firms design and implement social responsibility programmes.

17. Three points to note about this industry are:

- The best known firms in the industry are the long established accounting and audit firms (e.g. KPMG, PriceWaterhouseCoopers). These firms benefit from client relationships formed during decades of experience in business services centred on accounting, audit, and, more recently, consulting and legal services. They see this new line of business as a potential growth sector that would complement their recent moves to become full-service advisors covering not just financial audit but also legal, economic and technical consulting. Their interest in diversification into other lines of business has been sharpened by the fact that their traditional services -- accounting and audit -- are in a "declining" sector[5] (that is, growing at slightly less than the rate of GDP growth).

5. See "Preliminary Research on the Future of Auditing" AICPA- Assurance Services. 1999. www.aicpa.org.

- A number of smaller (but nevertheless multinational) firms also provide such services (e.g. Bureau Véritas and Société Générale de Surveillance). They offer a range of business services including quality (ISO 9000) and environmental (ISO 14001) certifications. For them, moving into other types of certifications appears to be a natural extension of their more long-standing activities. They have managed to establish strong reputations and to position themselves among the industry leaders.

- There is still no agreement among the various users of these services as to which organisations are most qualified to be performing them. As can be seen from BSR's description of the big auditing firms (whose employees, according to BSR, may not be well qualified to be interviewing workers for labour standards violations in developing countries), there is some distrust of the large, established firms. This distrust is even more pronounced in the NGO community, where many suspect that the for-profit firms in the sector are not really independent of the firms that hire them. Indeed, controversy about the independence of auditors plagues all audit fields, including financial audit, but is far worse in fields such as social auditing (see next section on audit standards). Parts of the business community, however, are concerned that some of the NGOs that provide monitoring services are using standards that do not enjoy broad legitimacy and acceptance[6]. .

18. Thus, one shortcoming of (non-financial) external verification is that it tends to transfer some of the voluntary codes' problems of credibility ("you can't let the fox guard the hen-house") into problems of credibility of the auditor or monitor. However, this shortcoming is largely due to the under-developed state of institutional supports in most fields of non-financial audit. This shortcoming would be addressed, at least in part, if auditing or monitoring standards, similar to those that have been developed for financial auditing, existed in other areas. As the next section will show, such standards are being worked on in some areas, but none of the proposed standards (with the possible exception of ISO 14001, an auditable standard for certifying environmental management systems) have achieved widespread acceptance by the business and NGO communities.

Monitoring and auditing standards -- a crucial, missing ingredient

19. Financial audit is the most developed form of external monitoring of enterprise activity. Its institutional structure has been in development for over a hundred and fifty years and has involved voluntary initiatives that have been shaped by corporate law and capital market regulation[7]. One of the main functions of this institutional structure is to define the set of steps and statements that make up the audit and the auditor's report. The objective of an audit is:

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6 . For example, in 1999, LPA, an association of human resource executives in the United States published its analysis of SA 8000, a well known, auditable standard for socially responsible labour management. The analysis alleges that SA 8000 is incompatible with and "gives unions greater employee access than they enjoy under the National Labour Relations Act (NLRA), the primary US labour relations law."… In relation to working hours the analysis assets that: "The SA 8000 standard is in direct conflict with US wage and hour policy and standard industrial practice." The conclusion states: "Many of the individual labour standards in SA 8000 adopt European instead of US approaches to labour law enforcement…" Published on www.lpa.org as memorandum 99-36 and dated March 18, 1999.

7. For example, formal auditing in Britain can be dated to the creation of the Comptroller General of the Exchequer in 1834 and to the creation in 1870 of the "English Institute" (an association of auditors), which was granted a royal charter as the ICAEW in 1880. The American Institute of Public Accountants was formed in 1887. Both of these are private, self-regulated associations.

… to enable the auditor to express an opinion on whether a statement (financial, environmental, social report) is prepared, in all material respects, in accordance with an identified reporting framework[8].

20. This quote underscores how formal the financial auditing process is. Auditors deliver strictly delimited statements about whether a statement adheres "in all material respects" to "an identified reporting framework". Financial auditing is quite a circumscribed activity and users of financial information tend to be aware of the strengths and shortcomings of the standards and frameworks that underpin the audited information. This awareness is part of the basic human capital -- or expertise -- that underpins any well functioning business sector in an advanced economy. Accounting and auditing standards are important parts of the business sector's intangible infrastructure.

One purpose of auditing standards is to remove discretion from the auditor so as to increase the credibility of the audit -- in effect, the standard removes some (or even most) of the auditor's room for manoeuvre. This means that, after undertaking standard steps to verify pre-agreed aspects of a firm's management procedures and of the information it proposes to publish, the auditor makes standardised statements about the adherence (or lack thereof) of these procedures and information to a given quality standard. This standardisation enhances the credibility of the auditor's services because it reinforces its claim to be acting independently of the firm being audited. It also makes it easier for every one involved in the process -- the firm being audited, the audited company and the users of the information produced by the audit -- to determine whether the audit has been done competently and in accordance with established norms.

8. This text is adapted from International Federation of Accountants Handbook, 1999. The Handbook refers only to financial auditing.

23. In the absence of such standards -- that is, if everything were to be decided on a case by case basis -- then the auditor (or monitor) could be pressured to use auditing and reporting practices that shed a flattering light on the firm. One recent study has highlighted this issue in the area of social audits in supply chains (O'Rourke 2000). The author or this study accompanied social auditors from one of the "Big 5" accounting firms and conducted a "parallel" audit of respect of core labour standards in a number of Asian factories. In comparing the two sets of audit results, the researcher noted significant differences, with the accounting companies' audit tending to show a much more positive picture. The researcher alleges that there was significant pro-management bias in the accounting firm's audit results. Some of the statements in the paper underscore the difficulty of trying to conduct credible audits in the absence of a widely accepted audit standard:

> *[Company name] is one of the key corporate players in labour practice monitoring. The company conducts more audits than any other company in the world and is a powerful participant in several monitoring and certification schemes. However, if the three cases reviewed for this report indicate the state of their art, there is much reason for concern about [company name's] monitoring systems and findings.*
>
> *[Company name's] monitoring is flawed in a number of important regards. While the company's auditors were able to find minor problems in the factories I inspected with them, they consistently overlooked larger, more important issues [relating to health and safety, freedom of association, collective bargaining and others]. … The significant and seemingly systematic biases in [company name's] methodologies call into question the company's ability to conduct monitoring that is truly independent.*

In the absence of widely accepted audit standards, even well-known people or companies using or offering audit services can have different views on what comprises reasonable audit practice. In many fields of corporate responsibility (especially supply chain issues), disagreement on reasonable behaviour by firms and on audit practice is pronounced. Some progress toward consensus on basic issues will be necessary before effective audit practices -- that is those that are acceptable, credible and useful to a broad cross section of information users -- can emerge.

24. The above quote also underscores the ambiguity of the term "independent" or "external" in the context of audits and external monitoring. The firm doing the monitoring is usually paid by the firm being monitored or audited. The auditor therefore may have a strong commercial interest in developing an ongoing business relationship with the firm being audited and may seek to nurture this relationship by producing results that its client will find flattering. The lack of auditing standards defining agreed practice aggravates this problem. Even in financial accounting, where auditing practices benefit from a long tradition, extensive standardisation and other safeguards, the independence of auditors is called into question from time to time[9].

25. In most areas of corporate responsibility, such standards do not exist or are only just emerging. Attempts to develop them in certain areas are being undertaken by governments, firms and NGOs. Some of the noteworthy initiatives include:

- Global Reporting Initiative (GRI). This initiative has developed guidelines for sustainability reporting by firms (that is, a reporting framework is being developed that includes economic,

9. Empirical studies of the financial auditor-client relationship suggest that it has at times influenced by commercial considerations. Of course, standardisation and other disciplines (e.g. the risk of litigation against auditors by users of reports they have audited) limit the extent to which this can take place.

social and environmental issues). The GRI guidelines are now being tested internationally using pilot firms from a number of OECD countries (e.g. Japan, the Netherlands, Sweden, United Kingdom, and United States). For the time being, it is unclear whether this will develop into a useful reporting framework for firms and for potential users of information on sustainability. GRI is a co-operative arrangement involving corporations, business associations and NGOs and has received some funding from the United Nations.

- The ISO 14000 series of environmental standards includes ISO 14001, an auditable standard for environmental management systems. It was issued in 1995 by ISO, a private, international standards setting organisation. ISO 14001 has attracted considerable attention and many thousands of certifications by firms. It is reasonably well accepted by the business community (though not all businesses think it is well suited to their needs) and by NGOs. However, this standard only concerns environmental management practices and commitment to continuous improvement. A firm could have poor environmental performance (measured for example, in terms of industry benchmarks for energy efficiency or effluents) and still be certified for ISO 14001.

- SA 8000 and ECS 2000: SA 8000 is an auditable standard for human rights in the workplace. It was issued by the Council for Economic Priorities, a US-based NGO. ECS 2000, issued by a private group based in a Japanese business school, covers various aspects of business ethics but concentrates mainly on bribery corruption and other types of economic crime. Both standards have attracted considerable attention, but they have not yet gained as much acceptance by the business community as ISO 14001.

Conclusions

26. The foregoing analysis has highlighted the difficulties businesses face in trying to establish credibility in many areas of corporate responsibility. One of the sources of the problem is the lack of a well-developed, widely accepted framework of supporting, intangible infrastructure (especially, standards on behaviour, auditing and reporting). Such infrastructure, once developed, will make it more difficult for firms, auditors (or possibly even NGOs) to "bluff" in this area. In effect, well-designed standards -- by codifying (largely) accepted norms for behaviour, management systems, audit and reporting -- lower the room for manoeuvre by companies and their auditors (social, environmental or financial), while still allowing them the flexibility they need to respond to different business, ethical and legal circumstances.

27. Much preparatory work remains to be done before such standards can emerge. In most areas, agreement or consensus on appropriate behaviour and management practice is a crucial ingredient that does not yet exist. Although meaningful standards that are considered relevant by the business community have emerged in some areas (e.g. environmental management), progress has been very limited in others (e.g. social audit and supply chain management). In the latter areas, there is a continuing need for dialogue, research and debate on what the problems are, on appropriate business conduct and on how (and if) such conduct should be audited and reported.

28. In the meantime, it is inevitable that a certain amount of frustration and distrust will accompany some corporate responsibility initiatives. Firms that attempt initiatives in areas such as supply chain management and social accounting will be frustrated because even good-faith efforts will not be taken seriously. Similarly, NGOs and consumers will be have a hard time distinguishing useful efforts (which they might want to reward) from initiatives that are nothing more than public relations ploys (which they might want to expose).

29. The main challenge of writing credible standards resides in reaching a modicum of shared understanding and agreement on the underlying behavioural, managerial and reporting issues. The different actors are influenced by different cultural, business, legal backgrounds. While the business community's views are highly relevant, other actors in civil society -- trade unions, consumers, NGOs, governments at various levels -- also need to be involved in various ways for the various issues. Unfortunately, this difficult, consensus-building phase cannot be skipped over. The corporate responsibility movement provides an institutional channel (aided by recent progress in telecommunications technology) through which various actors -- businesses, NGOs, trade unions and governments -- can air and debate different ideas. In this sense, it contributes to the eventual formation of consensus and, directly or indirectly, to the gradual emergence of the auditing and reporting standards that will enhance the credibility of these initiatives.

30. Finally, the analysis of the implementation content of corporate codes suggests that firms do not use external monitoring as a tool for addressing a range of ethical and legal compliance challenges. For example, the bribery codes provide relatively extensive discussions of implementation but hardly ever mention the use of external verification (aside from financial audit of accounts). Although there are a number of reasons for this, it points to another basic feature of corporate conduct and misconduct -- that not all of it can be effectively monitored by external parties. Some types of misconduct (e.g. the more sophisticated forms of bribery) would be hard to discern for someone not close to the bribery transaction. In order to prevent these types of misconduct, firms need to deploy a larger kit of compliance tools. In connection with bribery, whistle-blowing facilities are considered to be a crucial ingredient of an effective compliance programme. These, in effect, try to draw out information from company employees (who may, after all, be better informed than any external auditor could ever be) about misconduct that may be occurring within the company. Firms, NGOs and governments are accumulating expertise in how compliance tools can be effectively deployed in different business contexts and for different types of potential misconduct.

Box. **Organisations Providing External Monitoring Services**

Quoted from Businesses for Social Responsibility

Firms providing external monitoring can be divided into four categories;

(1) global accounting firms;
(2) monitoring firms
(3) forensic and investigation firms; and
(4) quality assurance or quality registrar firms.

Global Accounting Firms: Several large accounting firms offer external monitoring services globally by using auditors in various parts of the world. While these auditors have experience reviewing wage and hour records, they have been criticised by some advocacy groups for lacking the experience and skills to interview workers effectively and to examine factories for health and safety violations.

Monitoring Firms or NGOs: As monitoring of workplace conditions has grown in importance, several firms and NGOs focusing exclusively on workplace monitoring have been created in the past few years. Many of these firms, based in the United States, have staff or affiliates in exporting countries around the world and focus their efforts specifically on inspecting work sites for code of conduct violations.

Quality Registrar or ISO Certification Firms: Building on the platform established by the International Standards Organisation (ISO), a non-governmental organisation established to promote the development of voluntary standards that govern quality and environmental impacts, several quality registrar or quality certification firms have started performing workplace monitoring on codes of conduct and human rights issues. Many of these firms already visit and certify factories against ISO standards and several have begun to expand their services to include workplace assessments relating to codes of conduct and human rights.

Forensic and Investigation Firms: Other organisations currently providing external monitoring services include those from the forensic and investigation industry. Forensic and investigation firms typically use of network of professionals to investigate allegations of impropriety or perform due diligence assessments of potential or existing suppliers' ability to comply with codes.

www.bsr.org/resourcecenter ; electronic publication -- 2000.

Annex A

Definition of Attributes Used in Textual Analysis of Codes

Record keeping and financial reporting: Codes mention attempts to set forth quality standards for record keeping and reporting. Example:

> "…employees shall …comply with all accepted accounting standards, practices rules, regulation and controls …. Ensure that all entries are promptly and accurately recorded and properly documented --- no entry will intentionally distort or disguise the true nature of any transaction."

Compliance discussed: Codes mention implementation of or compliance with codes of conduct, other than record keeping and financial reporting. Examples:

> "[Company's name] "Ethical Business Conduct" and related procedures constitute company wide standards of conduct. This procedure provides an overview of the [Company's name] ethics and business conduct program and employees' responsibilities."
> "As a condition of doing business with [Company's name], each and every factory must comply with this Code of Vendor Conduct."
> A code of conduct has a section titled "Maintaining Compliance".

Codes signed by Executive Officers: A code is signed by the board of directors, the chairman of the board, the president or other top officers. This often takes the form of a signed message to employees as a foreword to the code text, or it can be a signature on the code document itself. Codes are not scored for this attribute when the code text merely says that the chairman or board of directors adopted the code.

Internal monitoring mentioned: Codes mention that the company monitors or has a compliance/ implementation system for its own company codes of conduct. Codes addressed to suppliers or other business partners are not scored for this attribute. Example:

> "The structure includes the Corporate Responsibility Committee of the Board of Directors and the Leadership Committee, which have oversight responsibility; the Compliance Council, whose duties include education, monitoring and response; and all employees of the Company."

Existence of whistle blowing facility: Codes mention the company ombudsman, with clear indication of where to contact this person, *e.g.* address, telephone number and EM address. Example*:*

> "Call the [company's] Human Resources hotlines at 1-800-xxx-xxxx to report any possible violations of law or other violations of the Code of Business Conduct."

Appointed compliance officer or committee: Codes mention company appointment of compliance officers or committees to execute compliance programmes. Example*:*

> "… we have established a "Corporate Compliance Committee" to oversee our compliance efforts and ensure that the Company has necessary policies and systems in place to train employees in their legal responsibilities, monitor compliance and correct any deficiencies in compliance programs."

Use of compliance manuals: Codes mention the existence of compliance manuals, or themselves look like manuals (give thorough guidance on what to do under certain circumstances, or have Questions and Answers). Examples:

> "Many of the statements made here are backed up by detailed policies and procedures. These are available on the internal policy and procedure web-site at: [internet address given]"
>
> '"Handle a Concern' explains the many ways you can get a policy question answered, or report a concern or possible violation". 'What to Watch Out For' lists some of the things that may indicate a policy problem."

Reference to disciplinary actions: Codes mention that the companies will take disciplinary actions in the case of non-compliance with the codes. Example*:*

> "Failure to act in compliance with the Code is likely to result in disciplinary action against both the employee committing the breach and others who condone it."

Report to the Boards of Directors: Codes mention that the Boards of Directors receive reports on compliance activities. Example:

> "The Committee will report annually through the Managing Director to the Board of Directors."

Training for compliance mentioned: Codes state explicitly that employees will be trained in code implementation or monitoring. Examples:

> "Each operating group and division will establish a training program. The program will be designed to ensure that all employees have an awareness of the [Company's name] Integrity Statement and the standards of conduct and legal requirements that are relevant to their wok at a level of detail appropriate to their job functions."

Signature by employees: Codes have a section in which employees are requested to sign that they have read the codes and will comply with them. Example*:*

> "This booklet contains an acknowledgement to sign as a statement of your personal commitment to integrity. It's a way for each of us to pledge to uphold the principles of high ethical standards and to comply with all company policies."

Monitoring suppliers: Codes mention that the companies monitor activities of their suppliers and business partners, as opposed to monitoring their own activities (internal monitoring). Example:

> "[Company's name] intends to monitor compliance with our Partnership Guidelines and to undertake on-site inspection of partners' facilities."

Periodic review by managers: Codes mention that it is the task of managers to monitor compliance and conduct periodic reviews. Example:

> "Management is responsible for instituting regular reviews of compliance…."

Bibliography

O'Rourke, Dara (2000) "Monitoring the monitors: A Critique of PricewaterhouseCoopers (PwC) Labour Monitoring" Unpublished manuscript, Department of Urban Studies and Planning. Massachusetts Institute of Technology. September.