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The United Nations Global Compact

Guest Editors

MALCOLM MCINTOSH

Independent commentator and Visiting Professor, Universities of Bath and Nottingham, UK, and Waikato Management School, New Zealand, and tutor at the Sustainability Institute, Stellenbosch University, South Africa

DAVID MURPHY AND RUPESH SHAH

New Academy of Business, UK

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About the Journal of Corporate Citizenship

THE JOURNAL OF CORPORATE CITIZENSHIP (JCC) is a multidisciplinary peer-reviewed journal that focuses on integrating theory about corporate citizenship with management practice. It provides a forum in which the tensions and practical realities of making corporate citizenship real can be addressed in a reader-friendly, yet conceptually and empirically rigorous format.

JCC aims to publish *the best ideas integrating the theory and practice of corporate citizenship in a format that is readable, accessible, engaging, interesting and useful* for readers in its already wide audience in business, consultancy, government, NGOs and academia. It encourages practical, theoretically sound, and (when relevant) empirically rigorous manuscripts that address real-world implications of corporate citizenship in global and local contexts. Topics related to corporate citizenship can include (but are not limited to): corporate responsibility, stakeholder relationships, public policy, sustainability and environment, human and labour rights/issues, governance, accountability and transparency, globalisation, small and medium-sized enterprises (SMEs) as well as multinational firms, ethics, measurement, and specific issues related to corporate citizenship, such as diversity, poverty, education, information, trust, supply chain management, and problematic or constructive corporate/human behaviours and practices.

In addition to articles linking the theory and practice of corporate citizenship, *JCC* also encourages innovative or creative submissions (for peer review). Innovative submissions can highlight issues of corporate citizenship from a critical perspective, enhance practical or conceptual understanding of corporate citizenship, or provide new insights or alternative perspectives on the realities of corporate citizenship in today's world. Innovative submissions might include: critical perspectives and controversies, photography, essays, poetry, drama, reflections, and other innovations that help bring corporate citizenship to life for management practitioners and academics alike.

JCC welcomes contributions from researchers and practitioners involved in any of the areas mentioned above. Manuscripts should be written so that they are comprehensible to an intelligent reader, avoiding jargon, formulas and extensive methodological treatises wherever possible. They should use examples and illustrations to highlight the ideas, concepts and practical implications of the ideas being presented. Theory is important and necessary; but theory—with the empirical research and conceptual work that supports theory—needs to be balanced by integration into practices to stand the tests of time and usefulness. *JCC* aims to be the premier journal to publish articles on corporate citizenship that accomplish this integration of theory and practice. We want the journal to be read as much by executives leading corporate citizenship as it is by academics seeking sound research and scholarship.

JCC appears quarterly and the contents of each issue include: editorials; peer-reviewed papers by leading writers; a global digest of key initiatives and developments from the previous quarter; reviews; case studies; think-pieces; and an agenda of conferences and meetings. A new feature is the 'Turning Points' section. Turning Points are commentaries, controversies, new ideas, essays and insights that we hope will be provocative and engaging, raise the important issues of the day and provide observations on what is too new yet to be the subject of empirical and theoretical studies. *JCC* continues to produce occasional issues dedicated to a single theme. These have included 'Corporate Transparency, Accountability and Governance', 'Stakeholder Responsibility'; forthcoming special issues will focus on, among others, 'Corporate Social Responsibility in Asia'.

EDITOR

Sandra Waddock, Professor of Management, Boston College, Carroll School of Management, Senior Research Fellow, Center for Corporate Citizenship, Chestnut Hill, MA 02467 USA; tel: +1 617 552 0477; fax: +1 617 552 0433; e-mail: edjcc@bc.edu.

Regional Editors:

Euro-Africa Editor: Malcolm McIntosh, Department of Economics and International Development, University of Bath, 242 Bloomfield Road, Bath BA2 2AX, UK; e-mail: malcolm.mcintosh@btinternet.com.

Australo-Asian Editor: David Birch, Director, Corporate Citizenship Research Unit, Deakin University, 221 Burwood Highway, Melbourne, Victoria, Australia 3125; e-mail: birchd@deakin.edu.au.

The Journal of Corporate Citizenship Issue 11 focuses on the UN Global Compact, details of which can be found at <http://www.unglobalcompact.org>. It was guest-edited by Malcolm McIntosh, with David Murphy and Rupesh Shah.

More details and full table of contents can be found at <http://www.greenleaf-publishing.com/jcc/jcc11.htm>. Free PDF downloads of the Introduction, and the article by Georg Kell, Executive Head, Global Compact, are also available.

Opportunities and Risks of the United Nations Global Compact

The Novartis Case Study

Klaus M. Leisinger

*Novartis Foundation for Sustainable Development and
University of Basel, Switzerland*

In recent years, changing expectations about the role of business in society have pushed the concept of good corporate citizenship into mainstream business thinking. There is a growing body of evidence linking corporate citizenship activities to positive business performance. Increasingly, leading companies recognise that they now have a broad range of stakeholders—including investors, employees, non-governmental organisations and the communities in which they operate. While corporate citizenship was emerging as a business trend, there existed no international framework to assist companies in the development and promotion of global, values-based management. By introducing the United Nations Global Compact (UNGC) and rooting it in internationally accepted principles, companies could feel confident that their actions were being guided by values that are universally supported and endorsed. Novartis Inc., one of the world's leading pharmaceutical companies, was among the first signatories of the GC. This paper describes how Novartis approached the implementation of the GC, the company's experiences and challenges.

- Globalisation
- Global Compact
- Corporate ethics
- Management process
- Human rights
- Social division of labour
- Corporate social responsibility

Klaus Leisinger is President and Executive Director of the Novartis Foundation for Sustainable Development. His professional career includes a four-year term as CEO of the former Ciba Pharmaceuticals regional office in East Africa as well as different responsibilities in the context of the company's international relations. As a professor of sociology, he also teaches and conducts research at the University of Basel. Focus themes include 'Business Ethics and Globalisation', 'Business and Human Rights', as well as 'Health Policy for Poor Countries'. Klaus M. Leisinger has advisory functions in different national and international organisations dealing with sustainable development issues.



✉ Novartis Foundation for Sustainable Development, WRO.1002.11, CH-4002 Basel, Switzerland

📧 klaus_m.leisinger@group.novartis.com

🌐 <http://www.novartisfoundation.com>

From Global Compact theory . . .

THE UNITED NATIONS GLOBAL COMPACT (UNGC) IS A SOCIAL CONTRACT (*CONTRACT social*) on *minima moralia*. Companies are asked to make an active commitment in their own activities and those of their business partners to live up to nine principles (see page 34). The principles are based on the Declaration of Human Rights, the guidelines of the International Labour Organisation (ILO) and Agenda 21 of the environmental summit of Rio de Janeiro, and are largely accepted by the international community. Implementation of the nine principles of the GC is intended to help companies turn the globalisation process into a dynamic stimulus for change that will contribute measurably to the realisation of broader social aims.

. . . to corporate practice at Novartis

How does the chairman of the supervisory board or the chairman of the board of a large company react when asked by the UN Secretary-General to take steps throughout a company to preserve human rights, to ensure fair and healthy conditions of work, and to protect the environment? Is it not *common sense* in the 21st century to expect that human rights will be respected, employees treated fairly and the environment protected? Is there not a basic consensus of globally binding values, unalterable standards and basic personal attitudes for enlightened people that even go far beyond these *minima moralia* (Küng 1998)?

It does not in the first instance call for any special ability of an individual or a collective corporate actor to make a moral judgment to agree to the basic principles of the Global Compact. These principles—at first glance—describe issues that are taken for granted, with compliance not requiring any solemn declaration. For this reason, there are probably few companies whose chairmen could fail to respond positively without losing credibility.

Since it is known to be always the little things that cause the most problems and since there are differences of view on content with regard to the nine principles—if the catalogue of demands by GC critics and their comparison with statements by corporate actors are anything to go by—the implementation process of the GC is still of interest in spite of the fact that the standards required are self-evident. With the aim of contributing to an informed discourse on the opportunities and limitations of the GC, the following is a report on the most important aspects and institutional challenges in efforts to implement the UNGC at Novartis.¹

The longest journey begins with the first step

Signing up to the GC normally involves the chairman of the board or another member of the board writing to the UN Secretary-General. After this formal agreement to the basic principles, the companies are expected:

- ▶ To inform their employees, shareholders, customers, business partners, and the media about their commitment to the GC, and
- ▶ To report at least once a year on the website of the GC about the concrete actions taken to implement the nine principles in the company, as well as the experiences they have had in the process.

As envisaged in the GC procedure, the Chairman and Chief Executive Officer of Novartis, Daniel Vasella, issued a public statement on 14 July 2000. In this he stressed that

¹ <http://www.novartis.com>

Novartis would welcome the GC becoming a catalyst for concrete actions by companies and nations and thus fostering the global acceptance of fundamental human rights and standards in employment and the environment.

In retrospect, this early and unequivocal commitment at the highest level was the decisive factor that endowed the GC at Novartis with the weight and importance it enjoys today. Coherent and consistent signals from management are of major importance in all institutions, including companies, because employees are on the lookout for such signals. They make it possible—and this is perhaps even more important—to cope with the internal pluralism of opinions within the company: they channel and shorten discussions on the best corporate strategy between company attorneys (e.g. ‘Say as little as possible to avoid court proceedings’), finance managers (‘How can we get away with it at the lowest possible costs?’), the communications department and public relations experts (‘How can we use this to ensure we appear as magnificent as possible?’) and ‘company idealists’ (‘What else could we do?’). Since the basic question of ‘Yes or no?’ was clearly answered by top management, the discussion content was reduced to ‘How?’ To clarify these issues as efficiently as possible, a high-ranking member of the Executive Committee of Novartis, Urs Bärlocher, was commissioned to lead and monitor the implementation process.

Just a few weeks later, a new version of the Novartis Code of Conduct was issued. This forms part of the commitment that Novartis expects of all its employees. The new version contains a reference to the Global Compact, and items were included that had never before been covered—such as the Universal Declaration of Human Rights and the basic effort to apply the company’s own quality standards to third parties (business partners, suppliers and so on).

From theory to sustainable practice

The general commitment is only the first step and the simplest part of the UNGC process for a company. The real challenge consists in achieving a global, sustainable, concrete and verifiable implementation of the ‘signature’ by top management in line with the vision of the UN Secretary-General to produce measurable success in everyday management and procedural practice.

In a family company with a few people it may be sufficient if the boss defines a particular package of behavioural procedures. In large companies with international operations and tens of thousands of employees, however, this is not enough. To exert a sustainable influence on the individual quality of behaviour at all levels of the company and beyond, a whole package of precisely defined measures and their controlled implementation are necessary—with the minimum possible impact on the completion of all other work.

A comprehensive communications programme must ensure that all employees know what the company has committed itself to and why. The vision and the underlying values with regard to an integral responsibility of the company must convince, persuade, inspire and motivate employees at all levels of management and implementation. Then what an individual knows has to be brought into harmony with what the person does. Concrete, action-specific objectives have to be defined and performance indicators developed and integrated into existing management systems and working practices. Then the results have to be measured and evaluated, and obstacles analysed and overcome. Finally—since the social environment and its expectations are constantly changing—an ongoing process of learning and adjustment has to be initiated and kept running.

Implementation of the UNGC was seen from the outset as an open-ended *process* and not as a *programme* that has a particular point of departure that is followed, after attaining a specific objective, by a predetermined end. The aim of this approach is to achieve a *feedback-controlled* management cycle that not only keeps the implementation alive but also constantly renews it by injecting it with new impetus.

Not starting from scratch

Holistic management thinking in many companies started in the 1980s with self-professed commitments to ‘sustainable development’ as defined in the Brundtland Commission report (WCED 1987). Further, the effort to shape corporate development as a social, economic and ecological process that takes into account the needs of both present and future generations was in various ways and to different degrees an integral part of many corporate strategies—including those of Novartis and its predecessor companies Ciba-Geigy and Sandoz. Since *triple-bottom-line* thinking, which links good financial results to good social and ecological performance, has long since become a part of the *mainstream*, there were no basic impediments to Novartis identifying with the objectives of the GC. The GC was a welcome opportunity to inject new impetus into ongoing programmes and processes. In this respect, the group in Novartis responsible for health, safety and environment and its head, Kaspar Eigenmann, contributed some especially valuable experiences.

Since the provision of a critical minimum capacity is essential if the commitments made are to be put into daily corporate practice on a sustainable basis, a working group was formed.

Provision of internal capacity

The initial impetus for every kind of successful value management in a company generally comes from a relatively small group of specialists. Right from the beginning of work focused on the GC, a small group of internal experts at Novartis met regularly to discuss the basic issues and the resulting need for action. This group consisted of people who had already been concerned in their professional past with the kinds of question raised by the GC: environmental experts, development experts, communications specialists, lawyers, and others who had gathered experiences with corporate codes or external guidelines such as the OECD Code of Conduct, the Sullivan Principles and the Caux Principles. These individuals also had experience in the elaboration and implementation of internal corporate codes of conduct. This approach brought together not only different types of expertise and technical skills, but also a rich variety of views, interests, and even values, which led to intensive and in some cases controversial discussions about the way forward.

To ensure smooth and efficient implementation of the GC, it was decided at the outset to set up a steering committee and a ‘help-desk’ (Global Compact clearinghouse), which had the task of drafting background documents and, if necessary, providing additional support.

The Global Compact steering committee

New or changed guidelines on how to proceed can only be sustainably and effectively implemented in large institutions—whether they be companies, unions, churches, multilateral organisations or others—when they are not perceived by their members as ‘foreign’ or ‘imposed from outside’. Wherever there is a lack of personal identification

with the objective ('not invented here'), the chances of it becoming a natural and integral part of corporate reality are not high. For this reason, the company set up a steering committee whose main task consisted of ensuring a company-wide commitment to the GC.

The steering committee consisted of top-level members of the most important business areas and the staff organisations.² To avoid it being seen as a 'headquarters issue', people in senior positions from various Novartis Group companies were included. Since a number of political issues were also to be addressed and value premises formulated on this steering committee, a wide range of interests, skills, experiences and value premises were represented. The pluralism of interests and values was used to keep the discussion on complex process issues at the high level that was required. In addition to formulating the strategy, this committee is also responsible for giving general advisory assistance and guidance for the process, for fostering understanding within the company, and for reporting to top management on the progress made and any problems or dilemmas encountered. Finally, it has been the task of this committee so far to provide ongoing advisory support in the further development of internal company regulations, implementation processes, wording of objectives and incentive systems, as well as monitoring the process for achieving the objectives.

The GC principles were regarded after a short time as minimum common-sense standards ('a floor'), which Novartis was committed to strengthening and expanding. Further, it was assumed that it would be conducive to identification by the employees if the standards implementation process were to bear a Novartis label and not a UN logo. Therefore, after about a year, the steering committee and the whole process were renamed the *Novartis Corporate Citizenship Initiative*.

Where GC principles of uncertain complexity have to be implemented, there must be supportive specialist knowledge in place and available within the company—in the form of a clearinghouse.

The Global Compact clearinghouse

It was clear from the outset that referring employees with queries to the Internet site of the UN Global Compact would not be an adequate way of dealing responsibly with the GC's principles. The background documents of the various partner organisations (the Office of the High Commissioner for Human Rights, the ILO, the United Nations Environment Programme [UNEP] and the United Nations Development Programme [UNDP]), on which the nine principles are based, had to be evaluated and the interpretations of the various actors of civil society, which in some cases were contradictory, had to be assessed. To be able to perform this important work with the requisite degree of intellectual quality, specialist knowledge and relevant experience are necessary. In other words, just as the need for experts on health, safety and ecology is taken for granted in departments for the environment, so too does the Global Compact process require experts on questions relating to sustainable development and specialists in human rights.

To initiate a meaningful internal dialogue on difficult issues, in order to give factually correct advice as to how the UNGC guidelines can be implemented, and to be a competent partner for discussions with external stakeholders, two kinds of knowledge are needed in a clearinghouse:

² For example, two members of the Executive Committee and other senior managers, such as the Head of Novartis Communications, the Head of Health, Safety and Environment, and the Director of the Novartis Foundation for Sustainable Development.

- ▶ *In-depth fact-based knowledge* remains the most important prerequisite for competent decision-making under complex conditions. Fact-based knowledge is the essential precondition for creating an awareness of all the possible options for action. Only deep, fact-based knowledge permits an understanding and estimation of all the possible consequences of any actions. Profound fact-based knowledge allows people to identify needs for change in order to preserve what is worth preserving. The search for 'simple solutions' may be understandable but is neither materially nor intellectually satisfying. Fact-based knowledge of complex problems is also intended to help prevent the occurrence of impromptu debates on points of view regarding complex issues, in which intrinsically legitimate personal convictions are allowed to become company standpoints in the absence of any meaningful discussion of the problems.
- ▶ The knowledge that is available must be normatively organised through *value-based knowledge*. What is meant here is the ability to recognise the ethical significance of different options for action, to weigh the pros and cons of these options in a responsible way, and thereby to elaborate options for action that offer an appealing degree of quality from the standpoint of both social and business ethics.

Professional clearinghouse work, in co-operation with other parties such as the communications department, also ensures that the company, first, is aware of the pluralism of values in the response to relevant questions and is able to observe a rapidly changing business environment and to adapt to this, and, second, has sufficient knowledge and communication skills to cultivate meaningful relations with stakeholders.

To achieve this, a company may set up specialised staff functions for human rights or development issues or may assign responsibility for these issues to other staff functions (for example, health, safety and environment, or international relations). Novartis enjoys the advantage of having knowledge of social and development policy issues at its disposal in the shape of the Novartis Foundation for Sustainable Development.³ Since this foundation had many years of knowledge of potentially critical issues, had a long record of maintaining professional networks and relationships with stakeholders, and advised the company on development policy issues, it took on the clearinghouse functions. Work in this area started with providing summaries of background information on all important issues (such as child labour and business-relevant human rights issues). These summaries presented both the relevant facts (such as UN resolutions and empirical data) and various stakeholder ratings. The information was made available on the intranet to all those potentially interested. Internal advisory support was also provided when required or requested, and assistance was given in defining current or potential susceptibilities and identifying borderline cases.

Internal company survey for an initial overview

Although there was an intuitively good 'collective gut feeling' that there was no cause for concern regarding compliance with the nine principles within the company, it was decided that an initial overview should be established through an internal survey. Together with the GC working group, the clearinghouse prepared a questionnaire designed to identify potential deficits in the company and with its business partners in terms of compliance with the nine principles. This questionnaire was sent to the main Group companies. The analysis did not reveal any surprises:

- ▶ Within the Novartis Group there were no direct or visible problems of fulfilment.

3 <http://www.novartisfoundation.com>

- ▶ Disquiet was expressed with regard to the GC performance of some business partners in a few countries. The identification and closing of gaps between current practice and acceptable standards (e.g. among third parties) was treated as a process—that is, any gaps that came to light should be closed within a certain period of time. Novartis declared its willingness to give active support to this process.
- ▶ Various Group companies expressed the desire to follow up the first survey with a second, more detailed survey.
- ▶ Responses to the questionnaire also made it clear that creation of awareness and continual training are the keys to sustainable success in implementing the principles.

A detailed analysis of potential vulnerabilities (for example, sex discrimination, the living-wage issue—i.e. whether all wages cover basic needs—or potential shortcomings in fulfilment of the principles by third parties) brought to light a large number of topics worth discussing. Responsibility for the professional handling of these issues was assigned to individuals in the company.

In addition, an initial corporate citizenship audit was carried out. This was done in a production facility in an Asian export processing zone. While the overall results of this audit were satisfactory, some practices—although they did not contravene national laws or regulations—gave cause for discussion. One of these involved pregnancy testing carried out by the (external) personnel recruitment agency as part of their normal evaluation procedures. While the reasons for conducting such tests could be explained from the company's point of view,⁴ the auditors felt—in keeping with the views of most human rights observers—that this represented a form of sex discrimination and was therefore not compatible with GC principles. After in-depth discussions, the problem was solved by offering the candidates a voluntary pregnancy test paid for by the company, the result of which would be treated in the strictest confidence.

Communication and training for GC implementation

The fact that a company has a steering committee and a clearinghouse may be a good thing, but it is still a far cry from ensuring a sustainable and successful implementation process. As with any other aspect of business, it was also necessary with the GC to ensure that all employees were sufficiently informed as to what this strategy means in practical concrete terms and what the philosophy is behind it. For a company that operates in more than 140 countries and thus has to deal with a large number of corporate cultures, this represents a huge challenge. The challenge consists above all in putting across a consistent and coherent message, at the same time taking account of cultural nuances that can make an enormous difference in the implementation process.

Any kind of internal corporate training and communications process has to cope with the fact that the foremost priority of people with responsibility at all levels of the hierarchy is not to devote themselves to the new information and communication efforts but rather to do their jobs and, for example, achieve their financial or marketing objectives. Any effective training and communications process faces the challenge of not only correctly formulating the key messages about complex content but also making them appealing and attractive enough to awaken and sustain the necessary level of interest. For this reason, an interdepartmental Novartis Communications Team developed a *roll-*

⁴ It was explained to the auditing team that the pregnancy tests were in the best interest of the young women, since they came from Muslim societies and would be away from home for at least a year. Learning of a possible pregnancy before their departure would save the young women from a culturally painful loss of face.

out kit and placed it at the disposal of all potential users. Then the questions of internal responsibilities had to be settled.

Responsibility lies with line management

There are probably no business strategies that can be effectively implemented without the direct assignment of responsibilities and accountability. First of all, the GC principles and later the expanded and more detailed *Corporate Citizenship Guidelines* had to be translated into a quantified and standardised set of rules, on the basis of which it is possible to make an objective assessment of performance. If the new corporate citizenship thinking was to be put into practice successfully, then the new guidelines had to become an integral part of the corporate culture, the organisational structure and the operational philosophy. In concrete terms, employees throughout the world at all levels had to be seriously and sustainably informed and trained, solid objectives had to be agreed upon, and adherence to these objectives had to become part of the company's internal performance appraisal and bonus system.

Since the GC also includes third parties and business partners, and since the *Corporate Citizenship Guidelines* took this into account, efforts with regard to training, operationalisation and revision also had to include suppliers and business partners.

Without the allocation of appropriate resources of time and money, of course, a complex commitment of this kind is not possible. Therefore, budget issues were also discussed. If compliance with the principles necessitated additional investments (e.g. investments in environmental protection) or generated higher costs (e.g. as a result of the internal health programme with which Novartis provides its employees and their core families with the diagnosis and treatment of tuberculosis, malaria and HIV/AIDS), then line management had to budget adequate resources. If this were not done, there would be a risk of a conflict of interest between the 'normal' business objectives and compliance with the corporate citizenship commitments. Where conflicts of interest or priorities nevertheless occur—and this will very likely be the case—a transparent internal process is available through which the problems can be appropriately solved.

Special challenges

Two peculiarities confer greater complexity on the GC process than is the case with traditional programmes for the implementation of *triple-bottom-line* guidelines: first, the binding nature of this agreement, which is beyond company-specific business responsibilities; second, the broad diversity of opinion and the broad spectrum of possible interpretations in the field of human rights. Since both aspects can unexpectedly leave a company wide open to attack, even if it is exemplary in its business conduct, it was clearly in the best interests of the company to proceed with particular caution here.

How are human rights principles to be interpreted?

Putting the two human rights principles of the GC into operation was accompanied by a number of interpretative challenges:

- ▶ Businesses should support and respect the protection of internationally proclaimed human rights within their sphere of influence.
- ▶ Businesses should make sure that they are not complicit in human rights abuses.

Analysis of ‘other UN conventions’, which according to the GC website should be taken into account in any discussion of human rights principles, shows the scope of possible interpretations on company-relevant human rights aspects: the reference documents available for consultation were primarily the *Universal Declaration of Human Rights* and various covenants. For a comprehensive picture, however, other conventions also had to be considered, such as the International Convention on the Rights of the Child, various conventions of the ILO, and multilateral guidelines, including the OECD *Guidelines for Multinational Enterprises*. There were considerable differences of interpretation between the various reference documents. An analysis was also made of stakeholder standards regarding the issue: for example, those of Amnesty International and the Sullivan principles.

In view of the diversity of possible interpretations, questions arose that were difficult to answer: Who judges with what legitimacy whether a company is implementing the first two principles in the spirit of the Global Compact? Who has the power of definition and interpretation for the content of the economic, social and cultural aspects of human rights?

A meaningful debate on the subject not only means a substantial effort in terms of company-specific evaluation and interpretation work, but also makes dialogue with stakeholders necessary to ensure acceptance of the Novartis position when subjected to scrutiny.

Civil and political rights

At no time during internal debate within Novartis were problems perceived with regard to the ‘first generation’ of human rights (civil and political rights, such as the right to life, freedom and security, the proscription of slavery, torture, and so on, from Articles 1–21). The discussion of such rights is carried out by human rights organisations in the context of states that have been associated with deficits in conformity with human rights requirements. The vulnerabilities in which a company becomes embroiled from this point of view appear to occur simply through their physical presence in such countries; the very fact that a company invests in a country that is not beyond criticism when it comes to human rights is sufficient for initial suspicion. In the context of civil and political rights, one principle was beyond dispute among all participants in the internal discourse from the very outset: it would be absolutely unacceptable if Novartis were to profit from human rights violations—in whichever country it may be. Whether the human rights situation of a country in the long term would be improved or not by the presence of multinational companies remained open—as it was in the historical discussion regarding Apartheid in South Africa.

More complex problems of interpretation and operationalisation occurred in the area of economic, social and cultural rights (Articles 22–29). Of particular importance, for example, in this context are Article 25 (the right to an adequate standard of living) and Article 26 (the right to education). What possible interpretations of such human rights principles are fair with regard to their application within a company? What is a just social division of labour? And, in this context, what can legitimately be expected of companies? What secondary obligations do companies have if states do not meet their primary obligations?

Economic, social and cultural human rights

Although the so-called economic, social and cultural rights (Articles 22–29) were always part of the human rights catalogue, they took something of a back seat in the past compared with civil and political rights—not least because a direct derivation of concrete and actionable obligations is only possible at most in those states where well-developed social laws and relevant institutions are in place. Positive rights that require material

action on the part of the state are generally more difficult to enforce than defensive rights against the intervention of the state in individual freedom.

The human rights conference in Vienna in 1993 stated in general terms once again that it is *incumbent upon the state* to ensure that economic, social and cultural rights are also upheld:

While the significance and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.⁵

Economic, social and cultural rights in the context of corporate activities

How should a company such as Novartis behave with regard to these rights? On the one hand, the state is unequivocally the addressee for human rights demands in this area; on the other hand, companies see themselves coming under increasing pressure in the context of the ongoing debate on globalisation. With reference to the catalogue of human rights, many actors of civil society demand preferential access to medicines for needy people in developing countries (through ‘negotiated prices’, ‘differential pricing’ or donations). In this regard, various non-governmental organisations (NGOs) draw on the wording of Article 25:

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

International covenants on so-called economic, social and cultural rights give added precision to this Article:

The State Parties to the present covenant recognise the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

and

The steps to be taken by the State Parties to the present Covenant to achieve the full realisation of this right shall include those necessary for . . . (c) the prevention, treatment and control of epidemic, endemic, occupational and other diseases.⁶

These are still demands on the state. But what should Novartis do in those cases where the state fails to live up to its obligations owing to lack of ‘good governance’ and people suffer or even die unnecessarily owing to lack of health services and effective medicines? Representatives of the Novartis Pharma Division and the clearinghouse developed a discussion basis for the steering committee: Does the right to medical care translate into some sort of a defined obligation for a company to create access to medicines? If so, what kind of medicines? Only generics? Or also patented medicines? And at what price? And for how long? The outcome of the discussion on these issues was a position paper approved by the Executive Committee.⁷

Also, the exact meaning of ‘complicity’—that is, in human rights abuses—is subject to a wide range of possible interpretations. Despite the background reading material⁸ of the UN Global Compact, this highly sensitive question has not yet been adequately answered and requires internal discussion within the company. What was clear without further discussion was that a company must not profit from the fact that lower produc-

5 *Vienna Declaration and Programme of Action* adopted at the World Conference on Human Rights, Vienna, 14–25 June 1993, Paragraph 5 (UN General Assembly document A/Conf. 137/23).

6 *International Covenant on Economic, Social and Cultural Rights* (1966).

7 See http://www.novartisfoundation.com/access_treatment_novartis.htm.

8 <http://www.globalcompact.net/articles/cr/complicity.html>

tion costs are possible in a country—for example, through slave labour or child labour—or from the legal practice of social or environmental dumping through deficits in that country's legislation. And a company must certainly not lobby for such deficient standards. On the contrary, it must be expected of a reputable company that it also implements the spirit of the human rights catalogue in the area over which it has influence, even if it would be legal to violate these rights owing to a lack of governance in a particular country.

It was perceived as difficult and probably not possible, however, to expect companies—as ambassadors for human rights, so to speak—to criticise government decisions in individual countries or even become publicly engaged against these governments. History teaches us that prominent human rights activists such as Sir Geoffrey Chandler or Chris Avery are right when they argue that, in face of flagrant human rights abuses, silence carries little conviction: 'Silence or inaction will be seen to provide comfort to oppression and may be adjudged complicity . . . Silence is not neutrality. To do nothing is not an option.'⁹ For all the sense of disquiet, however, it was not decided that there was a corporate duty to engage in political resistance.

Risk mapping

The risks seen as relevant to the human rights debate in the context of the pharmaceuticals industry are predominantly those associated with civil and political rights.¹⁰ This is not to suggest that companies show complicity in the abuse of basic civil and political rights, but is rather an expression of the fear 'that there is a risk that people will conclude that they are contributing to such abuses given the locations and industries in which they operate'.¹¹ The greatest potential vulnerabilities for pharmaceutical companies such as Novartis consist in:

- ▶ A *patents and pricing policy* that allows essential drugs—and, hence, especially life-saving medicines—to become too expensive under conditions of individual and collective poverty. In the broader sense, any kind of 'access to drugs' is discussed under this heading, with particular emphasis being given here to the HIV/AIDS products owing to their special position ('essential' but still under patent protection)
- ▶ *Research priorities*, which are exclusively focused on the market and profit volume of a global upper class with major purchasing power and not on the immense needs of the 3 billion people with a daily income of US\$2 or less who are suffering from poverty-related diseases

Further risks were identified in the areas of:

- ▶ *Clinical trials*: that is, issues to do with the quality of procedures, informed consent of trial subjects, and possible infringements of the duty of care when it is a question of following up the side-effects of medicines
- ▶ *Indigenous rights*: that is, biopiracy with traditional medicinal plants, using the active substances obtained without appropriate compensation of the indigenous peoples who have tended and cultivated these plants over thousands of years

⁹ Personal communication between the author and the two human rights activists.

¹⁰ See 'CSR-Risk Mapping Initiative: Pharmaceutical and Chemical Map' on the website <http://www.csrforum.org>: torture, disappearances, extra-judicial killing, hostage-taking, harassment of human rights defenders, denial of freedom of assembly and association, forced labour, bonded labour, bonded child labour, forcible relocation, systematic denial of women's rights, arbitrary arrest and detention, forced child labour, denial of freedom of expression

¹¹ 'CSR-Risk Mapping Initiative: Pharmaceutical and Chemical Map', page 2 on the website <http://www.csrforum.org>

Open questions

The model of the GC is based in the broadest sense on the idea of a ‘social contract’, according to which all members of society act in harmony, consider the concerns of others, and feel bound by the same norms (Donaldson and Dunfee 1999). However, the concepts at the heart of this contract idea, such as acting in harmony and considering the concerns of others, are interpreted very differently by various actors in pluralistic societies.

What is a fair social division of labour?

Modern societies are highly complex systems. They are made up of a multitude of actors (individuals, groups, organisations), whose strengths, interests and different modes of behaviour are interrelated in the context of general objectives and binding regulations in a pattern of circular interdependence (Luhmann 1997). To achieve the superordinate goals of a modern society (promotion of the common good by, for example, respect for human rights and the free development of the individual, establishment of basic conditions for sustainable economic development, social justice, and a guarantee that the basic needs are met of those people who cannot fend for themselves), the various players in society should contribute their share of work according to their abilities.

With many demands that are made of companies by inside or outside stakeholders, there is no question of their *basic* justification: for instance, demands for better access to healthcare services, including effective medicines, are without a doubt immensely justified from a superordinate perspective. The questions that have to be asked, however, are to whom such demands should be addressed and who bears responsibility in the context of a legitimate societal division of labour. None of society’s actors bears responsibility for every single issue; none shoulders all the duties, and none enjoys every single right. The efficiency and prosperity of modern societies depends to a large extent on a regulated and mostly accepted division of labour and an ability to co-operate among the various actors. Although ‘beauty’ to a certain extent is also in the eye of the beholder here, the broad consensus within Novartis to date is that, within the framework of the applicable laws, a company has to observe what is *economically proper*. Needless to say, Novartis may from time to time make voluntary commitments beyond this, which in specific cases, for example, provide the needy with easier access to medicines. In internal discussions, however, these were perceived as ‘voluntary commitments entered into on a case-by-case basis’ and not as an effort to comply with the obligations set forth in Article 25 of the *Universal Declaration of Human Rights*.

Since the interpretation of corporate obligations in this regard, however, is perceived as relatively ‘open’, further clarifications and also dialogue with stakeholders on this issue are being considered.

Fulfilment of the GC by business partners and third parties

It is clear that major companies with international operations in many respects have different—and better—employment and environmental standards than, for example, small to medium-sized enterprises in developing countries. In many developing countries, multinational companies work with local companies and use a whole range of their products and services. Collaboration of this kind is desirable both from the company’s point of view and from the standpoint of the country’s economy, because it offers the opportunity to create advantages of efficiency and at the same time leads to positive linkage effects. As a rule, however, local companies pay lower wages, offer fewer fringe benefits, and in many cases also have lower standards on the environment.

One aim of the GC is that business partners also understand the commitments of the company to compliance with the GC and act accordingly. For a company such as Novartis,

which works with about 50,000 suppliers and third parties, this constitutes a major challenge. Novartis is trying to meet this challenge through a combination of communication, offers of assistance, and the announcement that, in the event of unsatisfactory results, the collaboration will be brought to a close. The first step is to start creating an awareness among business partners of the basic issues; ultimately, contractual agreements on adherence to certain minimum standards will probably be signed at least with the most important business partners.

After an initial round of consultations and analysis, measures for improvement will be introduced over the next few years. Since not all outside companies and suppliers give cause for concern to the same extent, these efforts will have the character of a process. In this process, both a top-down and a bottom-up approach will be adopted, which will include both incentives and the possibility of sanctions. Novartis already gives preference to business partners, suppliers and contractual partners who share the company's social and ecological values.

External monitoring and verification

As mentioned earlier, many people in our civil societies do not trust global companies. This lack of trust, however, is far more than just a negative attitude towards the corporate world: on closer examination, it can be seen that people nowadays on the whole are essentially more sceptical than they were 20 years ago. They would seem to have lost trust in institutions and their leading representatives regardless of whether these are political parties and politicians, the church and the clergy, universities and professors, or business enterprises and their managers. Demands for certain attitudes and codes of conduct are no longer sufficient to create trust: people want to be convinced; they demand public control instead of staged self-portrayals in reports that companies publish themselves.

The GC ultimately strives to achieve external verification—and this is also accepted by most companies. The question that remains to be answered is: How external does 'external' have to be to ensure independence? For many NGOs, the engagement of traditional financial auditors is out of the question. They cannot imagine that these auditing companies would jeopardise their 'normal' business with the company they were auditing by searching thoroughly for shortcomings in the company's compliance with the GC. The conduct of Arthur Andersen in the case of Enron has not helped to allay such fears. So who should carry out such audits?

Independent, outside audits are important for the credibility of a company with regard to its efforts at compliance; they are even a prerequisite for such credibility. One of the experts in this field, S. Prakash Sethi from Baruch College at New York University, pointed out in a discussion at Novartis that a company must be prepared to submit its business practices and its compliance with codes to public scrutiny if it wants to achieve a positive *reputation*, to win over more consumers, and to achieve public recognition of its activities. In today's world, we are constantly seeing 'external audits' of corporate activity, whether by specialised NGOs¹² or by the media, political parties or competitors. In various sectors, such as the textile industry, there are fixed and well-tested 'engagements of independent, external monitors' who are consulted.¹³ There are also standardised processes in place, such as SA 8000,¹⁴ which can be applied and from which one can learn.

The search for answers on the question of outside auditing is therefore focused not on a 'Yes or no?' but on 'How and by whom?' It is true to say that those who have nothing to hide have no need to fear an external audit: on the contrary, success stories reinforce

12 For example, <http://www.humanrightsrisk.com>

13 For example, <http://www.dol.gov/esa/nosweat/partnership/report.htm>

14 <http://www.sa-intl.org>

both the motivation within the company and the reputation of the company in the public eye. But a credible audit must also reveal the gaps and deficits that exist in any large company. The concern of the company is that outside auditors will concentrate on these gaps—not least in order to strengthen their own reputation as an incorruptible authority—and construct out of them a report that could provide fodder for scandalmongers. In such a case, the performance of the weakest link in the company would become the deciding factor for the standing of the company as a whole. Unfair accusations would rapidly destroy the internal acceptance of outside audits. But it is clear that even the most serious-minded and selfless auditing organisation cannot prevent the problematical parts of its findings arousing far more public excitement and interest than success stories. And this is also bearable. Sulkily retreating into a corner, on the other hand, does not win any friends.

If the company wishes to have an external audit on a matter of principle but does not wish to expose itself in the process to public announcements on a few isolated deficits, then answers must be found with regard to the following questions and issues.

- ▶ Can standardised auditing procedures be developed to ensure the comparability of results? If so, how should one proceed so that traditional financial auditing companies are credible partners for this?
- ▶ What qualifications and responsibilities should the new generation of external auditors have? It is unlikely that a company would agree to its compliance with the GC being audited by an NGO that has never missed an opportunity in the past to show that the ‘usual suspects’ are the true villains. At the same time, a certain sympathy would seem appropriate for those NGOs that hesitate to offer an audit because they fear that—in the event of results that proved all too favourable with regard to the verified corporate conduct—they would forfeit their reputation as independent auditors and lose credibility.
- ▶ How does a company deal with moralising self-righteousness and with extravagant interpretations and over-interpretations: for instance, with regard to economic, social and cultural human rights?
- ▶ What is fair compliance with the ‘soft’ principles, such as a literal interpretation of the ‘right to medical care’? Not everything that is demanded by external stakeholders reasonably belongs in the realm of corporate obligations. But what, then, are the ‘ought to dos’ and the ‘can dos’, and what is ‘desirable’ beyond this? Who decides on these things? Not everything that can be counted also counts as the actual social responsibility of a company.
- ▶ What processes and steps could there be to bring deficits of compliance with obligations into the public eye? What role is played by internal company auditors, controlling officers and others in such a review procedure? What kind of collaboration would be conceivable between company auditors, traditional financial auditing companies and external institutions? What pragmatic procedures can be defined for making concrete progress and creating trust in the process? How can one create a climate in which constructive compromises can be achieved from divergent interests, instead of wrestling to achieve victory?
- ▶ How can the wide spectrum of internal and external views be used to advantage in the context of a constructive stakeholder-related opinion-forming process for external audits?

There are no simple answers and certainly no definitive answers to such questions. Since the answers that are found, however, are of general importance, the Global

Compact Learning Forum should be used as a forum of discourse with a view to reaching the broadest possible consensus.

What is the ‘business case’?

Why should a company such as Novartis sign up to the UN Global Compact—on top of the many different laws and dense regulatory network that it already faces, along with tough competition on product markets and increasing political influence being brought to bear on the pricing of medicines? Does it make sense for companies increasingly often to be given the growing burden of bearing responsibilities that—for example, in the case of protection of human rights—were unequivocally seen as state responsibilities until a few years ago?

The answer to this question does not come easily: on the one hand, not everyone can be responsible for everything, and this means that somewhere there must also be limits to the responsibility of the private sector or of individual companies. On the other hand, those who have the ‘broader shoulders’ also have an obligation to accept more responsibility: by analogy, the same applies for large companies with international operations as for those members of the ‘upper class’ referred to by Thorstein Veblen over 100 years ago in his *Theory of the Leisure Class* (Veblen 1986 [1899]). In view of their privileged social position, Veblen contended, they set the signals for that which is seen by broad sections of society as something worth aspiring to: they have not only the advantages of their economic and social privileges but, above all, more obligations. A correct understanding of the concept of elite embraces not only the attributes of power but also exemplary political, social and ecological conduct. Everything else is decadence. But there is a price to be paid for exemplary conduct.

The GC is not a ‘free lunch’

Making a commitment to the GC is not without effect on costs in business terms, nor is it a free lunch where the critical observers are concerned.

- ▶ Serious efforts to at the very least live up to the commitments made worldwide and at all levels of the company hierarchy, if not to go beyond these commitments, require substantial internal resources both for the conceptual work and for the implementation programmes right through to compliance checks.
- ▶ Where deficits are found that are legal but illegitimate in the spirit of the GC, adjustments are necessary, thereby leading to increased costs or reduced sales potential. For non-participating competitors, however, this is not the case.
- ▶ The prestige associated with the UN and its Secretary-General draws attention to companies that have publicly committed themselves to compliance with the principles of the GC. This exposes them to particularly intensive monitoring by public-interest groups that are sceptical of the GC and that accuse participating companies of just wheeler-dealing. The slightest deviations from what is defined as ‘correct’ from the standpoint of such groups can have a negative impact when picked up by the media as ‘evidence’ of ‘bluwashing’—without there normally being any examination of the professional integrity of the accusers. Since there is no independently certified ‘Richter scale’ for assessing the severity of possible breaches of the GC and thereby enabling the layperson to differentiate and see them in perspective, accidental and minor deviations are picked up by critical reporting with the same weight as that attached to deviations that result from negligent or even wilful actions.

For these reasons, a company that has signed the GC accepts an obligation of public accountability and submits to additional performance requirements and additional critical monitoring beyond compliance with laws and regulations. Why should it want to do this?

Corporate social responsibility to promote common global welfare

Without a doubt, it is desirable from a superordinate perspective for companies as corporate citizens of global society ('global corporate citizens') to defend the ideals of human rights and to act 'well' and 'fairly' in the light of both socio-ethical and eco-ethical standards. Such parameters of action are also a necessary precondition for a globalisation that is sustainably successful because it is compatible with socio-ethical and eco-ethical standards and respect for human rights.

For sustainable and effective motivation that is also maintained in economically hard times, this argument represents a precondition that may be necessary but is not sufficient for corporate activities within the meaning of the GC. A company and its management face the same problems of motivation as individuals, who may well be capable of understanding on a rational level that they should be ecologically minded in their everyday behaviour, but who do not actually do this. The general will to do the right thing, and thus to contribute to a globalisation that is 'politically correct' because it is socially compatible, is usually not sufficient to tie companies down to a mode of conduct that in the long term goes beyond what is required by law.

To work on the assumption that a significant number of companies in industrial or even in developing countries would be prepared to engage in an idealistic sacrifice of revenue for the abstract notion of 'globalisation with a human face' in the hope that this may one day lead to improvements in basic political conditions would be unreasonably optimistic. As with the everyday behaviour of private individuals, which leaves something to be desired in terms of our ecological future, one problem of corporate motivation for the GC lies in the fact that, overall, every company-specific contribution to globalisation with a human face is immeasurably small and therefore negligible, whereas any requirements within the company for correction or even relinquishment of sales is immediately and palpably felt as negative.

Companies that show exemplary conduct hardly ever see any direct positive feedback in the sense of discernible improvements in the broader picture with regard to the debate on globalisation. But they see themselves as being punished in the form of damage to their reputation when one of the weak links in the 'multinational' family has a negative impact on society's perception of the corporate landscape through its fallible conduct. Under these conditions, the view could take hold that 'as a single company one cannot achieve much anyway', and the good ones always lose out. If this is the case, then the tendency to keep out of politics, keep strictly to the law, and otherwise concentrate on the business of maximising corporate success becomes increasingly attractive.

This problem of motivation can also be solved through unequivocal individual value premises and resulting declarations of commitment on the part of management. This happened with the commitment of Novartis to the GC by the Chairman of the Board and CEO Daniel Vasella. To motivate more companies to assume social, ecological and political responsibility that goes beyond what is required by law, it is helpful to look for arguments that demonstrate that such activity goes beyond idealistic motivation and is in the long-term interest of the company.

Short-term maximisation versus long-term optimisation of profits

In the short term, any company can appear excellent in economic or social or ecological terms by attaching a clear priority to one aspect of the triple bottom line over the two others. In the long term, a lasting neglect of one of the three dimensions leads to palpable losses in the company's overall performance. While the long-term corporate strategy may be based on exhausting all legitimate financial opportunities for earnings in the short term and gaining competitive advantage, it is always done in a socially and environmentally compatible way. Only in this way can that maximum level of social acceptance be attained and hence the corporate scope be preserved that makes it possible to achieve sustainable business success.

Plausible arguments that the assumption of responsibility beyond what is laid down in law is in the company's own long-term interest are the customary references to reduced social interaction and friction and hence lower costs to the company, higher motivation of employees, greater attractiveness of the company for top-class employees, competitive advantage on capital and product markets through the 'positive coefficient' that comes with a good reputation, and the preservation of corporate freedom (Leisinger 1997). Recent developments in which the reputation of a company is taken into account in its bank rating give added weight to this kind of argument. These arguments also enjoy plausibility in the context of the GC.

Society has a long memory for misconduct

Responsible corporate activity in times of globalisation, however, can also be seen from another perspective than that of being in the company's own interests: no social activity and no social change has only beneficiaries and exclusively winners. Globalisation, too, harbours various risks and disadvantages for some people in our societies (and in developing countries) (Leisinger 1999). We know from research on the communication of risk that people tend to attach more weight and greater credibility to potential risks than to potential benefits (Siegrist and Cvetkovich 2001). We also know that greater attention is paid to misconduct in the sense of gross deviations from the expected norm and that these stick in the memory longer than correct business conduct that remains within the framework of legal norms (Siegrist 2000).

What has been demonstrated for technical risks is also plausible for social and financial risks. Company-specific countermeasures are possible—if at all—only in the long term and through activities that show unequivocally positive discrimination and through the establishment of trusting relations. Perpetual mistrust of an institution, whether as a result of repeated negative reporting on deficits of social or ecological activities or as a result of technical or other cases of damage, ultimately has political consequences, (for example, in the form of additional regulation). This in turn makes investments necessary or lessens market opportunities.

How does a company gain the acceptance or even trust of society?

The essential prerequisite for creating a climate of trust for people and institutions is the avoidance of negative headlines and, especially, of 'worst cases'. Then people and institutions can create trust by credibly demonstrating that their personal or institutional activity is also in the interest of society and seeks to enjoy the appreciation of society ('shared values') (Earle and Cvetkovich 1995).

The nine articles of the GC represent something akin to a global consensus of values: all over the world, people expect large companies to offer their employees fair conditions of employment, to protect the environment and to respect human rights (Environics

1999). Over the last few years, as a result of the growing importance of the human rights debate, this has also become an important dimension of corporate activity. Trust is created here by verifiable corporate efforts to put at least the norms of the GC into day-to-day practice and to show oneself as a responsible member of the global community, even exceeding these norms wherever possible through additional activities.

Outlook

A corporate citizenship process, as experienced at Novartis through the effect of reinforcing the commitment to the GC, is an open-ended process. No completion date can be fixed for the corporate citizenship project. Not only are the basic material and immaterial conditions and the demands of society with regard to corporate activity constantly changing, the vision and values that inform the corporate strategy are also subject to change. The satisfaction of customer needs in the broader sense, the responsible treatment of people around the globe—not just as a means to the end of greater productivity, but as people with their own intrinsic value—and protection of the environment are all important stones in the mosaic of ‘sustainable corporate success’. Innovation, efficiency, the ability to make the most of market potential and to read the signs of the times correctly, and the art of saving costs and expenditure in the right place at the right time, will also remain important in the future as indispensable corporate virtues. The ethical quality of corporate activity, however, will become increasingly important as an additional element. For this reason, an ongoing internal development of individual and collective abilities within the company to satisfy the changed needs of the market and society must remain part of corporate development.

A company that distinguishes itself from others as a good corporate citizen through political, social and ecological commitments runs a certain risk of having temporarily to accept competitive disadvantage through higher costs or lower sales. Normally, companies that seek to show qualitative leadership are prepared to accept this. Since it cannot be considered to be a satisfactory outcome when those who are socio-ethically and ecologically ‘good’ lose out in business terms (Homann 1999: 86), it is to be hoped that the GC will lead to new rules that are accepted as morally binding, and perhaps even to a new level of competition for qualitative corporate standards (best practices).

A competition for leadership in a humane and socially compatible globalisation that also offers a future in ecological terms, extending far beyond the corporate perspective, is in the interest of the common good. It could lead to humane social and environmental standards becoming the corporate culture in a critical mass of companies. This in turn would lead to a ‘systemic’ improvement of quality, which would allow the exemplary conduct of a few companies to trickle through, not as well-intentioned but isolated exceptions. The time for this is ripe.

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