Cases from Mellahi and Wood's *The Ethical Business: Challenges and Controversies* (Palgrave Macmillan, 2003) and elsewhere.

Your team (of three) will be assigned one of these cases to prepare for a short (nine-minute) class presentation, with a one- or two-page outline per team to be handed in at the time of presentation.

Contents:

1. Towards Social Accounting?
2. Partnership Agreements — Daimler-Chrysler South Afria
3. British Money in Asian Pulp & Paper
4. Oil Concessions in Angola
5. Redundancy in a Cold Climate
6. Monitoring Financial and Social Conduct
7. Supply Chain Management — GM and Nike
8. Philip Morris
9. Bound By the Chain of Command
10. Fair Trade
11. Retailers and the Environment
12. A CEO — a Chief Ethics Officer?
13. Ethics, at What Cost?
14. Paying Whistleblowers?

You are encouraged to read all of these cases, since they cover a wide span of the manager's areas of competence and operation.

Corporate Governance

CASE STUDY 1: Towards Social Accounting?

RUMBLINGS THAT THE (UK) Government is considering appointing a minister for corporate responsibility may signal a sea change in existing business philosophy, ushering in a new era of social accounting. Senior management and finance directors are coming under increasing pressure to throw out the rule book and look beyond wealth creation for the sake of wealth creation by taking up a more ethical stance.

It is a subject that is also being addressed as part of the continuing company law review. The Government is considering proposals that could result in a wider set of social accounting disclosure requirements being brought into UK law. The review has a hefty remit that covers a broad spectrum of issues, from poor payment practice to lack of community investment to trading with oppressive regimes.

According to Franceska van Dijk, senior consultant in SustainAbility, the strategic sustainable development consultancy, campaigners are lobbying for the introduction of the so-called triple bottom line. That is a set of accounts that stretches beyond financial reporting to cover social and environmental accounting, alongside economic measures.

Roger Adams, technical director of the Association of Chartered Certified Accountants (ACCA), says that think tanks and non-governmental organisations, such as the New Economics Foundation and Amnesty International, are "increasingly putting companies under the spotlight."

High-profile public relations disasters include the Nike link to sweatshop labour in developing countries, and Monsanto's brush with the genetically modified foods backlash. But it was Shell's necessary policy turnaround after Brent Spa in the mid-nineties that set the bail rolling.

Mr Adams says: "You are beginning to get this change in corporate thinking that it is no longer appropriate to try to bully the market by brand power. There is a realisation that even the strongest brand can be damaged if a company loses the trust of a particular group of stakeholders."

Because of this, a handful of global players, alongside a number of smaller firms, are trying to clean up their image. SustainAbility's clients include Ford, Shell, and Procter & Gamble, all of which, Ms van Dijk says, "are very interested in the sustainable development debate and what it means for their business."

The push towards business with a conscience is far from altruistic. The argument that is likely to make finance directors sit up is that a body of opinion is forming that suggests that being a good corporate citizen adds value to a business, ultimately boosting the bottom line.

Resources are being put into identifying the business case. The World Business Council for Sustainable Development, a body of international companies committed to social accounting, last month released a report setting out why it makes business sense to adopt an ethical policy. (*The Times*, London, 22/2/2000).

ISSUES:

1. What is the Triple Bottom Line? If it costs more for the firm (as it will) to produce a TBL report, how can this expenditure be justified to shareholders? To stakeholders?
2. Do you think that — using the above case as an example — firms are acting ethically if their actions are purely prompted by financial concerns, but are likely to produce socially desirable results?

Other Questions:

1. What are the reasons behind the increasing interest in the practice of corporate governance? Explain.
2. Do you think that there can be a "best practice" corporate governance model? Explain.
3. "A stakeholder in an organisation is any group or individual who can affect or is affected by the achievement of an organization's objectives." Critically discuss this definition.

Social Partnerships

CASE STUDY 2: Partnership Agreements:
Daimler-Chrysler South Africa

DURING THE APARTHEID ERA, South Africa had a closed economy, characterized by high levels of state intervention. Shielded by high protective tariff walls, and assisted by state incentives, a significant motor industry developed, moving beyond the mere assembly of knockdown kits to the manufacture of complete vehicles containing a large proportion of locally manufactured components. During the apartheid years, the company, then known as Daimler-Benz South Africa, gained a reputation for superior wage levels when compared to the rest of the South African motor industry and significant levels of social outreach expenditure, ranging from funding for sports activities to the beautification of the physical environment around the firm's East London manufacturing plant. Critics charged that this represented little more than "guilt money", given the firm's refusal to join North American motor firms that had disinvested from South Africa as a means of protesting against apartheid — and the fact that at various stages, it supplied truck components ultimately used by the South African military. The firm was also plagued by high levels of workplace militancy, culminating in a protracted strike/factory occupation that took place in 1990. The striking workers were opposed to the introduction of centralized bargaining in the motor industry, given that the firm offered considerably better conditions of service than other employers in the industry. The factory occupation was opposed by a significant component of the workforce, however, and the strikers were dismissed as a result of their actions.

The ending of apartheid also brought with it the phasing out of protective tariffs and reduced levels of state intervention in the economy; in response to pressure from global financial institutions, the ruling African National Congress's economic policies are largely neo-liberal in character. In the case of the motor industry, however, an imaginative deal between the government and the main players in the industry has resulted in the phased reduction of tariff barriers. Manufacturers can now import components in return for an equal value of exports. This has led to several motor manufacturers gearing up production for the world markets; Daimler-Benz South Africa (now known as Daimler-Chrysler South Africa) concentrating on exports of C-class motor cars. But export contracts were contingent on meeting rigorous cost, productivity and quality criteria set by the parent company.

This led to management negotiating a partnership agreement, a deal being reached in mid-2001. To management, this agreement was primarily aimed at ensuring high quality and timely deliveries following the winning of major export orders. The incentive plan would enable workers to take home up to 23½ weeks' extra wages a year. The deals also allowed for draws for consumer goods, participation in the draws being contingent on high levels of attendance. But shortly after the deal was struck, a major nation-wide strike broke out across the South African motor industry, over wages. The strike was characterized by bitter exchanges between Daimler-Chrysler management and union officials as to what a partnership deal was really about. To managers, the strike was a violation of the spirit of the deal; to the union, the deal was simply a limited trade-off, which did not free management from their obligation to pay a "living wage." Eventually, the strike was resolved through a pay compromise.

This dispute highlighted the fact that partnership agreements do not necessarily reflect the main parties sharing basic goals and values.

ISSUES: Do you think that modern social partnerships represent a reflection of more ethical managerial strategies or simply a tool for enhancing profits? In other words, are they simply there to ensure greater productivity, or should they represent the outcome of genuine concessions and trade-offs and explicitly aim to ensure greater fairness at the workplace and/or within wider society?

Other Questions:

1. What, do you think, consitutes "social partnerships?" Explain.

Environmental Issues

CASE STUDY 3: British money fuels circle of debt and destruction

Big UK banks put in millions

by Paul Brown and John Aglionby in Jakarta
Tuesday, June 26, 2001
The Guardian

ASIAN PULP AND PAPER (APP) is caught in a vicious circle. Because it has used relatively cheap timber culled from the rainforests, it has been able to undercut competitors and so depress the global paper market.

But now it finds itself with huge debts, in part caused by this depressed market. It is having to service the deficit by driving up production — and cutting down more trees. When all the Indonesian forests are gone, there could be a world paper shortage and spiralling prices.

APP has international debts of £8.5bn, and its share price plummeted from £5 to 8p before dealing was suspended. Normally, bankruptcy would quickly follow this situation, but a financial conjuring trick by the Indonesian government has kept APP afloat.

The government took over the local bank to which APP owed most money, making it the preferential creditor. Investors would get little or nothing if they forced the company into bankruptcy.

As a result APP can go on cutting forests until it runs out of trees. According to *Science* magazine: "If the current state of resource anarchy continues, the lowland forests of the Sundra shelf, the richest forests on earth, will be destroyed by 2005 in Sumatra."

Prominent in the destruction is the APP subsidiary Indah Kiat, the vast paper and pulp plant which is accused of getting large quantities of cheap timber supplies by clear cutting tropical rainforest.

One Indah Kiat supervisor told the *Guardian*: "There's no hurry to use more sustainable wood because that's more expensive to process. So we are using tropical hardwood and not asking too many questions about how legal it is."

British investors are among those who have ploughed money into APP. NatWest led a syndicate to provide £50m for companies within the APP group, and its current lending remains at £7m. A Friends of the Earth report, *Paper Tiger: Hidden Dragons*, claims that Barclays arranged a £430m loan in September 1990. The bank has refused to comment. Legal and General has holdings worth £120,000 in Indah Kiat and another subsidiary, Tjiwi Kimia, but is to review them. London-based Newton Investment Management is reported to be the 19th biggest shareholder in APP, with stock worth £1.4m — it refused to comment.

Ed Matthew, Friends of the Earth forests campaigner, said APP's trouble "would never have reached this stage if international investors had not put money into the company so it could go on building bigger plants. This led to them clear cutting even more rainforest, so flooding the market with cheap paper. Because the paper is so cheap the company has not been able to pay its debts, creating a vicious circle of more destruction and more debt."

(In February 2004, APP released their "sustainability action plan," detailing their commitment to the environment and the community.)

ISSUES: The above case raises a range of key questions. First, how accountable should financial institutions be for the range of actions of their customers: should banks lend money when it is evident that such money may be used to support palpably unethical activities? Second, would a more hardline approach by the banks at this stage — if prompted solely by the parlous financial state of APP — be devoid of moral worth?

Other Questions:

1. Why should firms take environmental issues seriously? Explain.
2. Should there be more to corporate environmental responsibility than the desire to secure long-term profits? Explain.

Ethics in a Globalizing World

CASE STUDY 4: Oil Concessions in Angola:
Pushing the Limits of Ethical Behaviour?

THE SOUTH AFRICAN STATE of Angola has been wracked by a bloody civil war for over 25 years. Most of the Angolan oil industry is located in shallow-water reserves offshore, safely removed from the activities of the rebel UNITA movement. But advances in oil extraction technology have opened the way for the exploitation of vast deep-water (1500 to 5000 feet below sea level) and ultra-deep-water reserves (5000 and 7000 feet). Current oil production is 750 000 barrels a day, although this is likely to rise substantially in the future.

Angola's offshore oil is particularly attractive owing to a desire by international firms to diversify supplies away from the Middle East and geological factors. Angolan seismic data makes it relatively easy for firms to accurately target their drilling, with a success rate of 60–70 per cent, as opposed to a world average of only 10 per cent.

The oil industry is jointly run by foreign firms, and the state oil firm, Sonangol. There has been intensive competition between Western petrochemical companies for exploitation rights on recently identified ultra-deep-water blocks. There is little doubt that US firms are at a substantial disadvantage vis-á-vis a number of European firms on account of more rigorous US anti-bribery legislation.

The bulk of oil revenue is diverted through secret defence accounts, ostensibly in the interests of national security, although this has created considerable opportunities for the expropriation of oil revenue by a notoriously voracious state elite. Given the diversion of oil revenues into the personal accounts of senior government officials, on the military and to service foreign debt, only some 7 per cent of the annual budget was devoted to public expenditure by 1998.

The aggressive jockeying among Western petrochemical firms for Angolan concessions, and controversies surrounding the payment of signature bonuses, led to renewed questions being asked about the role of other petrochemicals firms in Angola in the aftermath of the Angolagate scandal. The latter implicated several senior government officials and oil firms in a complex illegal arms, oil and debt deal.

In Angola, a number of petrochemical companies — including TotalElfFina, BP and Chevron — have been making substantial donations to the official Social Bonus Fund. The secretive manner in which these donations is being spent has led the newsletter, *Africa Confidential*, to charge that the social spending of oil companies in Angola could become "another vehicle for (extending) credit to the Angolan elite" (*Africa Confidential* 15/9/2000).

ISSUES: Do you think that oil firms should invest in Angola at all, and what is ethically acceptable in the current scramble for ultra-deep-water concessions? Should companies enquire too closely into the business of charitable concerns that are favoured by, or have close links to undoubtedly corrupt governments that are in the position to grant lucrative concessions? Third, there is the perennial "free rider" problem: there is little doubt that any oil firm that withdraws from Angola will soon be replaced by other, less principled, entrants. Should this, in any way, affect the decisions oil companies must make in dealing with the Angolan state elite?

Other Questions:

1. What do you understand by the concept of globalization? Does this process pose any specific ethical dilemmas for firms? Explain.
2. Introduce the principal ethical challenges most likely to confront a transnational corporation.
3. What do you understand by the concept of "fair trade?" Should this affect how firms do business in the developing world?

Ethics and Human Resource Management

CASE STUDY 5: Redundancies in a Cold Climate

A RECESSION, IF IT COMES, will be very different from the last — if you work in the service sector. Redundancy payouts in the media, IT and banking sectors are coming in well above statutory minimums, and mass culls of certain grades of staff, common in the downsizing phenomenon of the early '90s, are out. But in Britain's two-tier economy, manufacturing remains the poor relation when the axe falls on workers.

An example of how the service sector is laying off workers comes from the business-magazine division of Reed Elsevier, which publishes titles such as *Farmers Weekly* and *Caterer & Hotelkeeper*.

It has identified five jobs on its motor magazines that it says must go. It says it is now making strenuous efforts to find the people affected jobs on other titles. If that fails, it pays a month's salary for each year worked as part of what it describes as a generous redundancy package. Editorial staff can also expect to receive three months' notice pay.

A spokesman for the company says: "The downturn hit without warning and like most other publishers we have battened down the hatches. But there has always been a generous redundancy package at Reed and we have not seen any reason to change that."

Bradford & Bingley this week said it wanted to cut 500 clerical jobs and create some 200 jobs for financial advisers. But the bank insisted it would ensure that most of the job losses would be voluntary and was keen to encourage existing staff to retrain as financial advisers.

The day before B&B's announcement, Japanese electronics firm Fujitsu said it planned to cut 900 jobs. A spokesman said he expected all the jobs to go through natural wastage, mostly through its DMR manufacturing facility rather than its CL software and services subsidiary. "Providing IT services is a people business and it is sensible to keep staff on in this area. It is much harder to recruit good staff than it is to retain them."

Simon Webley, a policy adviser at the Institute for Business Ethics, which is funded by about 60 major firms, says the need to keep employees happy through the bad times is important, or they abandon ship when the good times return. "Changes in the law have also pushed companies to behave better," he says. "The changes have signalled that companies cannot just say 'you're out, mate' without considering the consequences."

But not everyone — particularly in manufacturing — will be treated with dignity and respect when the job they do is no longer deemed essential by their company.

Peter Booth, national organiser for manufacturing at the Transport & General Union, says little has changed in the way companies in his sector have handled staff relations. He believes manufacturing companies have been largely untouched by the enlightened attitude adopted in other sectors. Most firms pay the minimum one week's pay for each year worked and give only the minimum notice period.

"Things haven't changed significantly in my day-to-day work. Many conpanies, especially global companies with subsidiaries in the UK, are dealing with huge over-capacity in their markets and they react by cutting jobs," he says.

"In the rest of the EU, there are restrictions on withdrawing from a manufacturing facility. The company must draw up a social plan and get agreement with the local council. The council will also want to know if attempts were made to find another buyer. None of this is incorporated into UK law."

"Look at Marks & Spencer. The cuts in stores and jobs it announced in Britain have happened. In France it was forced to go back and think again, and instead of the stores simply closing down, they are now up for sale with the prospect that there might be a buyer and the jobs saved."

Steel maker Corus shocked staff and unions when it told shareholders that 5000 jobs and several plants would close. It was a shoot-first, think-later policy that encapsulated the worst aspects of cutbacks in manufacturing.

Yet the threat of an appearance at an industrial tribunal for breaching laws incorporated from EU directives has persuaded many employers that being nice pays.

Meriel Schindler, head of employment law at solicitors Withers, says investment banks in the City of London are a case in point. Many instituted job freezes at the beginning of the year. Then came job cuts. The hardest hit have been staff at subsidiaries of the giant US banks such as Merrill Lynch and Goldman Sachs.

But the banks have tried to stop themselves from over-reacting to what could be a brief downturn in work. Many have adopted voluntary redundancy programmes. Others have paid staff more than they were expecting in severance pay. Several have done both.

Public relations companies and firms of headhunters have been hit by budget cuts in the City and, in Ms Schindler's experience, have mostly approached the prospect of job cuts in the same way: "The companies we come into contact with are starting to deal with the situation with more caution and more sensitivity. It is fair to say that every human resources department knows that unfairly dismissing someone is no longer a cheap way to get rid of them."

A survey by consultant Penna Sanders and Sidney goes some way to supporting the idea that employers have improved. More than a third (37%) agreed that employers have a more responsible attitude towards redundancy. Only a fifth disagreed.

The sensitivity and caution are largely borne of fear that a redundancy programme will end up as an acrimonious court case.

Staff have for some time been able to claim that their redundancy is, in fact, unfair dismissal. But until three years ago the most compensation someone could win was £11,000. Few people bothered to complain, given the paltry sums on offer. The Labour government increased the figure to £50,000. It now stands at £51,000.

The number of complaints has trebled in the last three years to 130,000, which The Confederation of British Industry (CBI) says shows the new laws have gone too far. This week it claimed employment tribunals, many of them concerned with cases of unfair dismissal following a redundancy programme, will cost businesses £633m in 2001, up from £426m in 1999.

Digby Jones, director general of the CBI, said employers were seeing their consultation and dispute procedures bypassed by employees who went straight to tribunals to win compensation payments: "In too many cases the tribunal system is the solution of first resort rather than last resort. That is bad for employers but it is also bad for employees who face a stressful court case and often find themselves out of a job or in lower paying work," he says.

The Trades Union Council said many firms involved in disputes had failed to draw up procedures that allow someone to complain. Small firms are the most likely to ignore procedures and even laws when they announce redundancies, though many laws only apply to larger companies.

Worst off are the workers at companies which go bust rather than slimming down. When the receivers march in, they only pay the legal minimum redundancy and there is no chance of ex-gratia payments to soften the blow.

Another tactic is to worsen employees' terms and conditions to avoid redundancy. Workers at car-maker Rover, for example, have seen their pay cut and their pension entitlements reduced in order to keep the firm solvent. While in this case it was openly negotiated with the workforce, many other firms use it as a tactic to cut costs in a downturn regardless of their financial position.

Mr Booth says one firm in North Wales asked its staff for cuts in pay, holidays and a host of other entitlements. The workforce refused to agree. They were locked out of the factory and after the legal consultation period was over they were all sacked. These are extreme examples, but they show that while service industries that count people as their key resource are being fairer, many manufacturers still consider their staff a commodity to be used and abused.

Perhaps they should take heed of a growing trend in the US, where firms that have treated staff like they would steal paperclips have reported a huge growth in sabotage by those made redundant. Emailing a computer virus or three to their former employer is a particularly popular pastime among disgruntled sacked staff. That's another reason to use redundancy as a last resort. (*The Guardian*, London, 25/8/2001)

ISSUES: In your opinion, what is the best way to deal with "over-capacity" when firms face a slow down? Do you think it is right to continuously adjust and readjust employment policies to market downturns by hiring-firing and rehiring tactics?

Other Questions:

1. "Contemporary human resource management (HRM) accords too little attention to ethical questions." Critically discuss this statement.
2. What do you think the principal objectives of an ethical code of conduct governing HRM should be?
3. What, do you think, are the principal ethical challenges facing the practice of HRM? Explain.

Ethics, Accounting, and Finance

CASE STUDY 6: Monitoring Financial and Social Conduct

THE CO-OPERATIVE BANK (in the UK) has long been regarded as outside the mainstream when it comes to deciding to whom it will lend and how it will conduct its business. Now it has updated its ethical policy in a move that it believes will keep the bank at the forefront of the issue until well into the next century.

Simon Williams, the bank's head of corporate affairs, says the review, announced at the turn of the year, was an essential part of ensuring that the Co-op's policy "echoes developments in society at large".

He adds: "We are committed to regularly consulting our customers on the details of our ethical stance. After all, it is their money in the bank. New ethical concerns arise from time to time, and if they involve a question of finance or banking, they will be put before our customers. We then adopt a stance on these issues if our account holders mandate us to do so."

The biggest change to the policy involves extending the bank's ecological commitments to business activities considered unsustainable. As a result, the bank will not invest in companies whose core activity relies on the extraction or production of fossil fuels, the manufacture of unnatural chemicals or the "unsustainable harvest of natural resources." Revisions have also been made to the stance on the arms trade, human rights and trade and social involvement.

In particular, the bank is seeking to use its influence in the development of the "social economy" through assisting co-operatives, credit unions and charities. Already 60 per cent of credit unions bank with the Co-op.

Other organisations are also promoting the importance of social and ethical accounting. In the autumn the New Economics Foundation published the "quality scoring framework," with the aim of allowing the comparison and evaluation of different approaches to social accountability. And this week the Institute of Social and Ethical Accountability hosts a conference on "the practice of social reporting for business."

The event, to be held at the Commonwealth Conference Centre in London on 19 January 2001, will include presentations from Paul Monaghan, partnership development manager at the Co-op, Chris Tuppen, social and environmental measurement manager at BT, and John Elkington, chairman of the SustainAbility consultancy.

The organisers say: "Business and corporate success can no longer be defined solely in terms of earnings, growth and the balance sheet as social and ethical responsibility has become both an individual necessity and an organisational requirement."

The Co-op is confident that it is in a good position to encourage those who do not see how matters are developing. "Every company needs a bank account and many need lines of finance. Therefore, a bank is in a strong position to decide whether to fund a business activity or not," says Mr Williams. (*The Independent*, London, 17/1/01).

ISSUES: What role, if any, do you think, banks have in ensuring ethical behaviour by their clients? And, should the definition of auditing be expanded to encompass not only the monitoring of financial procedures and conduct but also, social ones?

Other Questions:

1. "By branching out into consulting, accounting firms have hopelessly compromised the traditional role of the auditor." Critically discuss this statement.
2. "Creative accounting — so-called — is unethical and should face the strongest legal sanctions." Critically discuss this statement.

Ethics and Supply Chain Management

CASE STUDIES 7: GM and Nike

A: GM'S Policy Covering Gifts, Entertainment, and Other Gratuities from Suppliers

BOTH AS A MATTER of sound procurement practice and basic business integrity, we at General Motors must make our purchase decisions solely on the basis of which suppliers offer General Motors the best value for the goods and services we need. We should avoid doing anything that suggests our purchase decisions may be influenced by any irrelevant or improper consideration whether illegal, such as a kickback or bribe, or technically legal, such as personal friendship, favors, gifts or entertainment.

Consequently, it is General Motors policy that no General Motors employee accept any gift, entertainment or other gratuity from any supplier to General Motors or bidder for General Motors business, including supplier units which are part of General Motors. This policy applies to all employees whether or not they are directly involved in purchasing activities.

There may be rare circumstances where to refuse a gift conceivably could be against General Motors' legitimate business interests, particularly in those countries where gift giving is simply an expected social courtesy and is not intended to corrupt or influence a particular purchase decision. There inevitably will be gray areas or situations where the applicability of this policy may not be immediately apparent. For example, very inexpensive mementoes, such as "logo" pens, cups, caps, or other similar items of nominal value, may be accepted subject to any more stringent policy which your business unit may adopt.

To help in interpreting this policy, several illustrations of its application to hypothetical fact situations are attached. In the final analysis, however, the best course is to decline any gift, entertainment or other gratuity from a supplier to General Motors. Any questionable situation should be discussed with your supervisor to determine how best to handle it. If there is a reason for you ever to accept a particular gift of any real value, it should be reported to your management and the gift always must be turned over to the Corporation for display, use or other appropriate disposition (Anonymous 1996).

B: The Case of Nike

NIKE HAS MADE ENVIRONMENT performance a priority, reaching out beyond Nike-owned facilities to include manufacturing partners, suppliers and material vendors. In an effort to green its supply chain, in February 1993, the Nike Environmental Action Team (NEAT) arose out of Nike's efforts to coordinate specific environmental efforts around the world in the context of its business practices. NEAT's mission was to develop answers to the problems that Nike's business — and the sports industry as a whole — poses to the environment. Nike actively seeks partnership with ecologically responsible suppliers who have made a commitment to sound business practices. Facilities not meeting Nike's environmental business standards are offered assistance through NEAT representatives.

To help track its contractors' progress in reducing pollution, Nike supplies all chemical vendors, equipment suppliers and manufacturers with an educational programme which includes: an overview of Nike's objectives; its corporate environmental policy; a master substances list; legislation concerning products and packaging; executive summaries on all programmes so that factories/vendors know which programmes apply to them; a sustainability assessment; and labour practices programme information. In addition, Nike has developed a program for Management of Environmental Safety and Health (MESH) to help its manufacturing partners develop objectives and targets to reduce and eliminate environmental impacts.

Nike's objectives include its aim to:

- Integrate principles of sustainability into all major business decisions.
- Scrutinize its environmental impacts in its day-to-day operations and throughout every stage of the product life cycle.
- Design and develop product, materials and technologies according to the fundamental principles of sustainability.
- Promote Nike's practices throughout the supply chain and seek business partnerships with suppliers who operate in a manner consistent with Nike's values.
- Educate its employees, customers, and business partners to support its goal of achieving sustainability.
- Turn awareness into action by integrating environmental responsibility into job responsibility.

Nike's efforts have been emulated by many other leading firms operating in a wide range of different sectors, Ironically, despite evidence of good practice in the environmental area, Nike has had to contend with allegations that at least one key South East Asian subcontractor has made use of sweatshop labour.

KEY QUESTIONS:

1. Do you think the dominant firm in a supply chair should be responsible for the ethical conduct of its suppliers? Give reasons for your answer.
2. Critically discuss General Motors' "Policy Governing Gifts, Entertainment and Gratuities from Suppliers" (see above). Do you think this policy does enough to ensure ethical conduct?
3. Can Nike's environmentally sound policies mean that the firm should be allowed greater leeway in its labour practices? Give reasons for your answer.

Ethics and Marketing

CASE STUDY 8: Becoming Respectable — the Case of Philip Morris

CIGARETTES KILL PEOPLE. Even the companies that make them now admit that. Indeed, Philip Morris, maker of the world's best-selling cigarette brand Marlboro, actually pointed out the "benefits" of killing people last week.

It commissioned a study for the Czech Republic that concluded that its government saved £21m in 1999 through not having to support, house and care for smokers who died prematurely from tobacco-related illnesses.

In spite of the rather twisted moral logic of such an argument, the initiative was just the latest example of Philip Morris' new strategy of openness and "responsibility." Earlier this month it emerged that the company was working with London advertising agency Doner Cardwell Hawkins to develop a European campaign positioning it as more socially responsible.

Typically, a senior Philip Morris spokesman denies all knowledge of the campaign, although he admits that DCH has been "doing some development work for us."

The agency won't discuss the brief, but it is understood that the tobacco giant is trying to emulate the $100m-a-year campaign it has been running in the US that is trying to reposition Philip Morris for the 21st century. It concentrates on the range of public work and projects it funds using the endline: "Working to make a difference. The people of Philip Morris."

As part of its drive for respectability, Philip Morris is also keen to position itself as the world's biggest packaged goods company, rather than a tobacco baron. Although two-thirds of Philip Morris' $80bn sales last year came from tobacco, its website makes great stock of the fact that its subsidiary Kraft is the world's second biggest food company and that it owns Miller, the second biggest brewer in the US.

Ironically, it seems it was this revelation that prompted pressure group Adbusters to place a powerful anti-Philip Morris ad in magazines such as *Harpers & Queen*. The ad pictures Kraft brands such as Maxwell House, Philadelphia and Shreddies, and the headline: "Why are you buying your food from a tobacco company?"

Philip Morris' new approach was crystallised in March when chairman and chief executive Geoffrey C. Bible launched a new mission statement to institutional investors: "To be the most responsible, effective and respected developer, manufacturer and marketer of consumer products, especially products intended for adults."

He said that only responsible manufacturers would have a role in shaping the industry's future and announced a strategy of "constructive engagement" with both government and pressure groups.

At the meeting, Bible even suggested that Philip Morris should work with the US government in regulating the tobacco industry, to which one share-holder quipped: "It's like the Ku Klux Klan helping develop civil rights laws."

But there is logic in this thinking. The holy grail for Philip Morris is to be seen as a credible business. It wants to validate tobacco — which is still a legal, taxed product — alongside other "adult" drugs it makes, such as alcohol and coffee.

"We're seeking to be more responsive to society," says David Davies, vice-president for corporate affairs. "We will look at appropriate opportunities to communicate with societies generally about the values that we hold." (*Financial Times*, 24/7/2001).

ISSUES: Do you think that companies in controversial industries such as tobacco face advertising restrictions, even if they are not directly promoting their principal product, in this case, tobacco? Alternatively, does the sophisticated nature of Philip Morris's marketing strategies in the first world underscore the near impossibility of regulation in this area?

Other Questions:

1. What ethical issues are likely to intrude into the relationship between marketing managers and their customers?
2. Is a code of ethics sufficient to ensure fair play in marketing? Explain.
3. Introduce and critically discuss the concept of "green marketing."

BOUND BY THE CHAIN OF COMMAND

It was nearly 6pm when Mina Sitzky put down the phone in a state of anticipation. She had been told by the recruitment agency that she had got to the second interview stage for a great job. If she got it, it would be a real move upwards at last.

She realised it was some time since she had felt genuinely excited about her career prospects. She was in her mid-30s and working as the regional distribution manager for an independent grocery chain. Her early career had been spent in secretarial or administrative positions, but she had slogged her way through a part-time MBA — not an easy task when you are divorced with three school-age children.

On graduating, she had resigned from her secretarial position and taken her present job. Although not highly paid, it looked after the bills better than secretarial work did. It was close to home, allowed her some flexibility in her working hours, and gave her a chance to demonstrate and develop her skills.

Times were tough for the few independent companies in this industry, and it was virtually impossible to earn the performance bonuses she had hoped for. She had earned only one in the three years she had been there. And, of course, there wasn't much of a corporate ladder to climb, so she could not see herself advancing much beyond her present position. What's more, the grocery business was in many ways conventional. The chain of command reigned supreme. People stuck to their part of the business and did not share information much. If you had to, you took your problems to your boss.

Her boss was the company's state manager. He was considerably older, openly looking forward to retirement in five years or so, and did not believe in an open-door policy. Mina did not blame him for this. In this respect he merely echoed the culture of the rest of the company: you dealt with your own problems as far as possible. Moreover, he was often away at head-office meetings and, she felt sure, did not completely understand the new systems that she had brought in.

She got on better with a colleague at her own level, Tom Ploughman, an accountant and financial analyst. Tom shared her interest in improving the company's systems. They had shared a few gripes about how hard it was to get people to come around to new ways of thinking. Tom understood her frustrations because he also reported to the state manager. But Tom was basically a relaxed individual who thought it was usually easier to work around obstacles than to try changing everything.

Just when Mina was beginning to conclude that she had gone as far as she could in her job, she had a phone call from an MBA colleague who worked for a multinational pharmaceuticals company. He told her it was about to hire a distribution manager for a similar territory to the one she was working in now. The starting salary would be more than 40% higher than she was earning and, with bonuses, she could take her salary well into six figures. There would be a company-funded car for personal use as well.

Her colleague would like at least to mention her name to his company's head-hunting firm. Would she be interested? Somewhat startled, she hastily updated her CV. Sure enough, within a few days she was contacted by the recruiter and had a first interview.

So, things were moving quickly but quietly. The only person at her workplace she had told about the new job possibility was Tom, who had agreed to write a reference for her if he was asked.

The company put a high value on loyalty and Mina did not want to tell her boss until she had been offered the new job. Tom encouraged her. He was the best person to write about her abilities anyway. He knew much better than the boss did how her new systems worked and what improvements they had brought about. "Go for it," he had said. "There aren't really any comparable jobs they can offer you elsewhere in the company. And, let's face it, the prospects in the rest of the industry at the moment are pretty thin."

She was just collecting her things to go when she heard a tap on the door. She was surprised to see it was Jason Turner. He was juggling a bunch of folders and did not look happy. Jason was an administrative assistant in his early 20s who formally reported to Tom but also did some paperwork for Mina. She regarded him as a person who took his job rather casually and lived for the

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weekends. Certainly, it was unusual to see him working as late as 6pm. Even so, thinking of her own experience, she had ncouraged him to consider further study, and lately he seemed to be taking her idea seriously.

"I know you're just going, but can I talk to you for a few minutes? There's something I need to discuss with you." he said. "It's about these reports. I just can't seem to get on top of them."

"Well, I don't see that I'm likely to be able to help you," she said. "That's really something for you and Tom — I mean Mr Ploughman — to figure out. If you really feel there is too much work for you to deal with, I'm sure he would be willing to talk about it with you."

"No, that's not what I meant," Jason said. "These are reports from a few months ago, not something I have to do now. The problem is that I think there's something weird about them. I went back to some original files just to see how I had entered something a while ago, and now I just feel sure the final reports are not quite right. There are expenses listed here that I never saw the paperwork for, but the cheques have been signed anyway ..." He trailed off, looking awkward and worried. "It's not the first time I have had this feeling, but before, I just thought I had got it wrong. I don't really know how to say this, but I think there's something dodgy about some of those reports."

They talked some more and Mina briefly looked at the material Jason had brought with him. She did not understand the format of the reports; they were different from the warehousing reports she received regularly. In any case, the amounts Jason was concerned about were not large, about $50 and $70 here and there. The largest was only $100. But they would add up to a large amount after a year or two.

It was true there was not much explanation attached to some of the entries, but perhaps that could be explained by the delays in implementing Tom's new systems. Tom had complained as often as she had about how long it took to establish something new in the company. There could be any number of other explanations for a few items that did not match or were not documented. She had never noticed anything irregular in the way that Tom handled the accounts in her part of the company, or her expenses.

However, Mina was beginning to understand Jason's concern, and her own. You need to be pretty sure of yourself before you point out something that might amount to an accusation of dishonesty. Had Jason simply misunderstood something? And, to whom could Jason complain if the problem concerned his own boss? She knew why it would be difficult for him to bring the matter to the attention of the state manager. That would be bypassing the chain of command. In any case, the state manager was out of town and, as he had made clear to her, he preferred people to look after their own affairs.

She thought about what she knew about Tom. His healthy lifestyle did not seem to fit with supporting a hard drug habit or a gambling problem, and the small amounts of money involved did not seem to fit either. He owned a late-model car and was paying off a townhouse; nothing his salary would not cover. He did not seem to be anxious about money.

She was tempted to tell Jason to relax and forget about it, but she could see that he was really concerned. He had come to her because she was interested in him and he felt that she would take him seriously, even if he was mistaken. In the end she suggested doing nothing for the moment and she would give it some thought. But as she drove home no inspiration came. She was aware that she could do nothing to look into the issue without Tom being aware that the query came from her. Of course, she had said nothing to Jason about how much her job hopes rested on Tom's good opinion during the next few days.

Questions

Does Mina have any obligations in a strictly legal sense? What ethical obligations does Mina have? What aspects of the organisation itself — its structure, culture or systems — seem to have contributed to the problem? What would you do if you were Mina?

CASE STUDY 10:

Brewed Awakening?

NYT, June 6, 2004
By ROB WALKER

Fair Trade Coffee

Producers of goods and services face a daunting range of potential ethical missteps: damaging the environment, outsourcing jobs, mistreating workers. But what about the ethics of Joe Consumer? Or, to take a particular case, a joe [coffee] consumer. Your morning cup of coffee happens to be an ideological battleground over the ethics of the global economy. The world-market price of coffee has fallen so low that, according to a nonprofit called TransFair USA, millions of third-world farmers are being crushed by unfair competition and cannot survive. Coffee sellers who buy beans at the cheapest price are simply following the ruthless logic of markets: if they pay more, they have to raise prices — and risk losing customers. But rather than agitate for some kind of international legislative solution, TransFair has devised a strategy that depends, ultimately, on consumer ethics.

The idea is that if you buy coffee — or other foodstuffs like tea, chocolate and fruit — with a "Fair Trade certified" label, you know that farmers at the other end of the consumption chain have been fairly compensated. Since 1999, when TransFair started its strategy, sales of such coffee, which can cost twice as much as Folger's, have grown from 2 million pounds to a projected 27 to 30 million pounds in 2004. TransFair's president, Paul Rice, is justifiably proud that thousands of small farmers are able "to put food on the table, to keep their families together" as a result.

Some people suggest, in fact, that consumer ethics are on the rise. In April, the consulting firm Wirthlin Worldwide put out a report noting that 82 percent of consumers it surveyed said that "corporate citizenship" has at least some influence on their buying decisions. Marc Gobe, a brand consultant and the author of a book called *Citizen Brand,* insists that a sea change is under way, partly because, he says, "We live in a society where everybody feels guilty."

Perhaps. But here's another way to look at it: the United States imported 2.8 billion pounds of coffee last year. Even if you just look at premium coffee, which TransFair says is a 500-million-pound market, Fair Trade accounts for only 5 or 6 percent of sales. This is not a supply problem; Rice says that farmers who are already certified could easily produce three times as much coffee as they do now, which would in turn attract more farmers — if the demand was there.

And that's just one product. How many Fair Trade buyers also stick to free-range chicken? How many eschew all clothes or electronics made in unsavory conditions abroad too? How many are, on top of that, "carbon neutral" (or even know what that means)? The answer is, obviously, a lot closer to 0 percent of all consumers than 82 percent.

In defense of the modern shopper, sorting out and taking sides on even a few issues would be a major undertaking. The Rocky Mountain Institute, a nonprofit consultancy, helps companies promote “sustainable consumption,” which means producing things in ways that take into account all the consequences to society and nature. But getting consumers to think systemically is not easy; more immediate issues — price, for example — often guide day-to-day decisions.

Rice figures that only a small percentage of Fair Trade buyers are motivated primarily by a desire to do good, "even if it means a certain element of self-sacrifice." If Fair Trade goes mainstream, he says, it will be because of the larger group that wants great-tasting coffee and food but doesn’t want “to feel as if they’re contributing to someone’s misery.” Gobe makes a similar point when he notes companies boosting sales by, say, supporting breast-cancer research. “We want to do good, but we don’t want to get out of the house,” Gobe explains. “A brand can help us feel good — if you buy this yogurt, you don’t have to make any other effort. You just buy it.”

So that’s it? We just buy ourselves some ethics? This seems to let us off the hook a little too easily. Yet Rice is optimistic. Maybe opting for the Fair Trade version of an everyday purchase is a first step. Consumers, he says, are a “sleeping giant” that could reconfigure markets by dint of their demands — if they would only wake up and smell the coffee.

ISSUES:

As a consumer, would a “Fair Trade” label influence your purchases? If a wholesale firm could source, say, only 40% of its coffee from TransFair, should it bother to separate its sales into two brands (one “fair trade,” the other not)? Is buying from suppliers such as TransFair — and labelling appropriately — the end of any responsibility by wholesalers or retailers? Is TransFair a cop-out for retailers?

CASE STUDY 11: **Retailers and the Environment**

Environmental Activists Build Unlikely Alliances With Big U.S. Retailers — Protests Lead Home Depot to Improve Forestry Practices in Chile, Indonesia — An Accord Takes Root in Atlanta

By Jim Carlton

6 August 2004
The Wall Street Journal Europe

CONCEPCION, Chile — High on a ridge above this coastal city stands a forest of ancient araucaria trees, bending in the wind. Native forests like this one, once in constant danger of being razed, now are more likely to remain undisturbed.

Their unlikely protector: Home Depot Inc.

The world's largest retailer of lumber, Home Depot buys almost 10% of Chile's annual wood exports. Most of the lumber comes from tree farms of nonnative radiata pine and eucalyptus that the Chilean lumber industry planted on denuded land, including in places where large swaths of native forest had been clear-cut or burned down.

In the past few years, Home Depot has begun lobbying governments and loggers to stop overcutting forests from Asia and Africa to the Americas. In Chile, Home Depot recently brokered a pact to deter landowners from converting native forests into the very kind of tree farms on which the retailer depends.

Home Depot is part of a growing rapprochement between American corporations and the global activists who traditionally clashed with them. In 1999, environmental groups organized protests against the company, charging it was failing to ensure that its wood didn't come from endangered forests. Activists picketed dozens of Home Depot stores, hung banners at its corporate headquarters in Atlanta and protested outside shareholder meetings.

Home Depot was afraid the protests might lead to a consumer backlash and sliding sales. It had already started an internal push to follow better environmental practices. So the company agreed to stop using products from endangered forests. It created a new executive position — environmental global project manager. The man appointed to the post, Roland "Ron" Jarvis, has the authority to sever logging contracts with any supplier whose practices harm endangered forests or otherwise hurt the environment.

Citing the destruction of tropical forests in Indonesia, Mr. Jarvis slashed Home Depot's purchases of wood there. He also played mediator between Chilean environmentalists and Chile's two largest timber producers, Empresas CMPC SA and Celulosa Arauco & Constitucion SA, persuading them to overcome years of acrimony and negotiate face-to-face for the first time.

Many environmentalists applaud this newfound activism, saying it represents the fruit of so-called markets campaigns that some activists have carried out over the past decade. Instead of seeking environmental change through government legislation or the courts, these activists target specific corporations through boycotts and protests. They then persuade those companies to pressure their suppliers and business partners to change their practices, creating a "green" domino effect through an industry.

Office-supply giant Office Depot Inc., in response to an activists' campaign against it, pressured an Indonesian supplier to stop using wood from the country's most endangered forests. Home-improvement retailer Lowe's Cos. joined Home Depot and several U.S. companies in pressuring Canada to declare logging off-limits in great swaths of the Great Bear Rainforest in British Columbia.

"If you've got Home Depot carrying your water, you're going to get a lot farther than as just an environmental group," says Randy Hayes, president of the Rainforest Action Network, an environmental group in San Francisco.

The retailers that have made changes say it is too early to see any impact on the environment, but some say they are seeing benefits to their bottom line already. Home Depot, for example, says it sold $30,000 (24,920 euros) of green-certified wood to build all of the ramps at this year's X Games — featuring extreme sports — which started Thursday in Los Angeles. The protests directed against the companies also have ceased.

The markets campaigns don't always work. Even proponents of the campaigns admit that the agreements generally aren't legally binding. Sometimes pressure from giant U.S. corporations isn't enough to make countries change environmentally harmful logging practices.

In bowing to the environmentalists' demands, Home Depot agreed to give preference to wood that had been logged in an environmentally friendly way. It first used guidelines from the Forest Stewardship Council, a body now based in Bonn, Germany, that certifies trees as properly harvested. But Home Depot realized it couldn't meet demand with council-certified wood alone. It needed to identify forests around the world that were endangered and persuade suppliers not to log there.

That proved to be a challenge. "If you asked us when we started this program how much of our wood came from the Brazilian rainforest, we didn't know," recalls Mr. Jarvis, an athletic 44-year-old who was recruited by Home Depot co-founder Pat Farrah to become environmental manager in June 2000.

Formerly the head of Home Depot's merchandising business in the southeastern U.S. and Puerto Rico, Mr. Jarvis spent the first few months getting educated. He met with officials from the U.S. State Department and Department of Agriculture and sat through a global forestry summit in Rome where he huddled with timber executives from 30 countries.

Six months later, he had learned enough to begin enforcing Home Depot's new green policy. He concentrated first on Indonesia. Home Depot's main supplier there was cutting trees in a slash-and-burn fashion, razing entire swaths of the country's rainforest to get the lumber it wanted. "We asked them to stop, but they said they would continue," he recalls. In response, Mr. Jarvis cut 90% of Home Depot's purchases of Indonesian lumber. The remaining purchases came from suppliers who didn't slash and burn. Mr. Jarvis hoped rewarding those suppliers would pressure others to change their methods but that hasn't happened yet, he says.

In the African nation of Gabon, a Home Depot supplier also used slash-and-burn methods in a jungle that is home to the endangered lowland gorilla. Mr. Jarvis pulled most of Home Depot's contracts there when the company's suppliers declined to change their practices. He shifted the buying to tree plantations in southern Brazil and Central

America.

In late 2002, an environmentalist named Aaron Sanger phoned Mr. Jarvis. Coordinator of the Chilean wood campaign for San Francisco-based Forest Ethics, Mr. Sanger warned that the expansion of Chilean tree farms was wiping out the country's natural forests.

Chilean activists had started complaining about the decline of native forests soon after the dictatorship of Gen. Augusto Pinochet ended in 1989. In 1974, Mr. Pinochet instituted subsidies for tree farms, aiming to build a large wood-products industry. While the plantations grew to generate some $2 billion a year in Chilean exports, environmental activists and native Mapuche Indians living near the tree farms fought to rein in their growth. The Mapuche and local herdsmen said the farms sucked up scarce water and caused severe erosion.

"We can't even graze our animals there," because the tightly packed plantation groves provide too much shade for grass to grow, said Julio Alarcon, a 62-year-old herdsman, as he warmed his hands over a campfire in a native forest surrounded by tree farms in the central Chilean highlands.

The tree plantations were an example of the conundrum Home Depot faced. It wanted the lumber to meet U.S. demand. But it couldn't say it was observing its environmental policy's promise of "efficient and responsible use of wood and wood products" if native Chilean forests continued to be cleared.

Mr. Sanger asked Home Depot to work with Chile's biggest timber companies, CMPC and Arauco, on solutions to the controversy. By late 2002, Mr. Sanger was organizing a campaign encouraging North American buyers to boycott Chilean wood. More than a dozen companies eventually joined the boycott.

Mr. Jarvis agreed to look into the situation. He called two Chilean executives — Hernan Fournies of CMPC and Charles Kimber of Arauco — and asked for their side of the story. The Chileans accused the environmentalists of exaggerating claims. Environmentalists said some 1.2 million hectares of native forests had been removed by fire and logging to make way for plantations of mostly radiata pine. The executives asserted that the real figure was less than a third of that. They also said they were no longer doing the conversions, but were planting tree farms mainly on former ranch and farm land.

Mr. Jarvis then asked if the companies had ever sat down with their critics in Chile to discuss the problem. He was surprised to find they hadn't.

"So I threw out the idea of bringing both sides to the table to talk these issues out," says Mr. Jarvis. The Chilean logging companies reluctantly agreed. "Of course, we have to listen to what our customers want," Mr. Fournies says.

Mr. Jarvis suggested a meeting outside Chile, where the two sides had clashed repeatedly. The previous year, Chilean police had shot and killed a 17-year-old Mapuche boy as he and several of his tribesmen tried to take over a CMPC tree farm.

Both sides agreed to meet May 1, 2003, at Home Depot's Atlanta headquarters. Distrust was high. "I thought to myself, 'Maybe we will have a blood bath,'" Mr. Fournies recalls. Mr. Jarvis posted an armed guard outside the fourth-floor meeting room.

The timber executives wore casual attire to try to fit in with the activists. The executives remember being pleasantly surprised at seeing all of the environmentalists dressed in business suits. One woman from the Rainforest Action Network showed colleagues where she had scaled a building to hang a banner attacking Home Depot four years earlier. "I thought the suits would show respect," recalls Mr. Sanger, who led the talks for the environmentalists. Twenty-three people, including Mr. Jarvis, sat around folding tables, the environmentalists on one side and the timber executives on the other. The CMPC executives bristled when Malu Sierra, a fiery activist from Santiago, began lecturing them on the need to do more to protect the forests because the companies were "so rich" and, in her view, had a history of hurting the environment. An equally outspoken executive named Daniel Contesse, vice president of CMPC's forestry operations, recalls that he started to jump to his feet to rebut Ms. Sierra.

From his corner, Mr. Sanger says, he quietly interjected: "We can't agree on the past, but we can agree on the future — to protect the native forests of Chile."

That helped set an amicable mood for the rest of the four-hour meeting, the timber officials say. The two sides came away from Atlanta with plans to work on a forestry accord. In the meantime, the logging companies agreed to enact stronger conservation measures and the environmentalists agreed to stop targeting Arauco and CMPC in their boycott campaign.

The next big meeting was in Chile in July, where CMPC and Arauco executives had invited the environmentalists to inspect the companies' forests, sawmills and nature preserves. The environmentalists were impressed, in part, by the companies' expressed desire to preserve the country's remaining natural forests. At the tour's end, Mr. Sanger told the lumber executives, "We have learned you are as passionate about the native forests as we are."

A hurdle arose when the two sides sat down to hammer out the details of their forest-protection agreement. The companies wanted to emphasize in the statement that they had been following conservation practices for a while. The environmentalists bristled over the language, Mr. Jarvis says. It took Mr. Jarvis to break the impasse. "I basically told both sides, 'If you want to win on this, you have to give,' " Mr. Jarvis recalls. So the environmentalists agreed to give the companies some public praise.

After one more meeting at Home Depot's headquarters in Atlanta and further telephone consultations, the two sides were ready to go public with their agreement on Nov. 12. Although the companies insisted they weren't doing forest conversions themselves, they agreed not to keep buying land that landowners had deforested recently. CMPC said it wouldn't buy properties razed after 1993, while Arauco said it wouldn't purchase land cleared after 2002.

The agreement was important, environmentalists say. The 50,000 people who own forest plots in Chile now will have less incentive to clear out native trees in the hopes of selling the land to a big timber concern for a tree farm.

So far, everyone has adhered to the agreement. Mr. Jarvis says he is now preparing to spread Home Depot's activism. "I think that maybe this is a template we can use in other countries," he says, naming Indonesia as a possible next target.

ISSUES:

1. “For retailers, working with green groups can be a fairly inexpensive way to ingratiate themselves with customers and rid themselves of negative publicity.” Critically discuss.
2. “Instead of seeking environmental change through government legislation or the courts ... activists target specific corporations through boycotts and protests.” The article is about the environment. Are such activities justified for (1) environmental issues? (2)labour issues? (3) customer issues (such as asbestos-related sickness and death)?
3. To what extent should firms attempt to anticipate such actions and act to prevent them? How?

CASE STUDY 12: **A CEO — a Chief Ethics Officer?**

Today's post-Enron world calls for a new kind of 'CEO': Chief ethics officer

By Wojtek Dabrowski — *Financial Post* — 19 June 2004

THE FINANCIAL scandals ripping into Corporate America over the past several years have also led to mushrooming growth of a relatively new senior management position: the chief ethics officer.

Just as in the late 1990s chief technology and chief information officers were hired in scores at technology companies, so now corporations are responding to wilting investor confidence by buttressing their corner offices with a new breed of 'CEO.'

At first blush, a full-time senior management position dedicated to ethics and compliance sounds like a good solution. But critics question why a chief executive officer would delegate responsibility for fostering an ethical culture to another individual.

"Think about the message you're sending to your shareholders, your customers, your employees, when you name somebody to be the chief ethics officer," said David Silverstein, Breakthrough Management Group' chief executive. "What does that say about the CEO? It sends the message that the CEO ... is not capable of creating a culture that has strong moral fiber or strong ethical backbone," he said.

Proponents believe it says that a corporation with a chief ethics officer treats the issue seriously enough to dedicate a senior management position to it.

The chief ethics officer — a role seen largely confined to the U.S. — deals with fostering and maintaining integrity and ethical behavior, handles internal complaints about business practices and often is responsible for part of the regulatory and compliance work. That last component of the job description has grown increasingly onerous since the passage of the Sarbanes-Oxley Act after the scandals at Enron Corp. and WorldCom Inc.

In Canada, similar work mostly falls on the shoulders of a corporate secretary or a compliance-tasked vice-president. But supporters of the chief ethics officer say the position also allows for increased dialogue with potential whistleblowers who might not too intimidated to speak with a CEO or a corporate secretary.

"The head of the company should have responsibility for ethics, but to say that he's the chief ethics officer means that you're going to inhibit all kinds of people from coming to that person if they have an ethics dilemma," said David Nitkin, president of Toronto-based EthicScan Canada Ltd., the country's largest ethics consultancy.

However, Mr. Silverstein said, in some cases, creating a chief ethics officer is a sign of the times — nothing more than a "knee-jerk reaction to financial scandals, Sarbanes-Oxley [and] the dot-com bust." He believes that a company that has hired a chief ethics officer could see the market lose respect for its chief executive.

The sentiment was echoed by Doug Caldwell, the chair and founder of The Caldwell Partners International, a Canadian headhunting firm. "In some ways, if you appoint a person in that category, you also are maybe admitting that you're questioning what the ethics of your organization really are," Mr. Caldwell said.

Given that companies such as Enron and WorldCom helped create this new role due to the damage they inflicted on investor confidence in North America, it's not surprising to find one of those firms has one of busier 'CEO's' in the U.S. Nancy Higgins, the chief ethics officer at MCI — WorldCom's post-bankruptcy incarnation — has held the post for about eight months. She says the job of ensuring that no unethical behavior takes place at MCI remains the chief executive's job. Hers is to "help management to create the kind of work environment where people feel comfortable coming forward and raising concerns when they have them."

Computers giant Dell Inc. hired Thurmond Woodard its chief ethics officer about 18 months ago. Mr. Woodard said he also sees his position as one that takes the lead on ethics from the company's chief executive.

Dell has regional ethics managers around the world, coupled with a universal code of conduct for the whole company and an ethics risk-assessment model which it has recently tested in Canada and India. Mr. Woodard reports to Dell's board quarterly.

"The most important thing, I believe, to prevent an Enron from happening ... is walking the talk," he said. This means individual accountability for ethics inside the company from the CEO on down to the rank-and-file.

"My belief is that a company can deal with any problem as long as it knows about it," said Ms. Higgins. "But you can't fix something that you don't know about."

ISSUES:

What are the arguments pro and con firms appointing "chief ethics officers"? Would appointing one be likely to reduce the level of unethical behaviour of firms?

To what extent can ethical standards be imposed top down, do you think?

"The CEO is just the leatest fad in corporate governance, as a response to recent corporate scandals." Discuss.

CASE STUDY 13: *Ethics, at What Cost?*

When Good Ethics Aren't Good Business

By JEFFREY L. SEGLIN

18 March 2001
The New York Times

STORIES about courageous chief executives who, when faced with business pressures to do otherwise, choose to do the right thing invariably end up reading like morality tales. The message? Good ethics leads to good business results.

The fire that devastated Malden Mills Industries just before Christmas 1995 was just such a story. Rather than collect the insurance money, lay employees off and shutter the textile company, Aaron Feuerstein, the owner, promised to keep the employees on the payroll while he rebuilt. Mr. Feuerstein rescued the business, saved about 3,000 jobs and kept the town of Lawrence, Mass., where the company is based, from economic disaster.

While stories like Mr. Feuerstein's are inspiring, they add to the myth that good ethics and good business always go hand in hand. That is simply not the case.

"One could argue that responsible management and doing the right thing are often characterized by the same things," Jon P. Gunnemann, a professor of social ethics at Emory University, said. "But you can't infer that every decision about the right thing to do is necessarily going to be good for the company. Sometimes, doing the right thing can have tragic consequences."

A prime example may involve Ed Shultz, the former chief executive of Smith & Wesson, the gun manufacturer based in Springfield, Mass. Last March, in an attempt to defuse lawsuits the company was facing from at least 29 municipalities that held handgun manufacturers responsible for violent crimes, Mr. Shultz entered into an agreement with the federal government. He said that Smith & Wesson would include locks on its handguns, research and implement "smart-gun" technology that would only allow the owner of a gun to operate it and improve the way retailers sold its products. Much of this, said Mr. Shultz, was already being done.

"It was a business decision," Ken Jorgensen, a company spokesman, said. Tomkins P.L.C., the British company that owns Smith & Wesson, wanted to sell the company, a goal that was impossible as long as the lawsuits were pending. The company knew the reaction to the agreement with the federal government might be harsh. "There wasn't any question there was going to be a hit," Mr. Shultz said. "The question was how big the hit would be and for how long."

As it turns out, the hit was huge. The company was vilified by its customers, retailers and perhaps most vocally by the industry lobbying group, the National Rifle Association.

Sales dropped off dramatically, and by October the company announced that it was laying off 125 of the 725 employees at its Springfield plant. Mr. Shultz left the company in September to run another company that had been sold by Tomkins.

Why would a company very publicly decide to implement changes in its products that it knew would likely meet with disapproval among its core constituents? Up until this time, Mr. Shultz said, the company had done everything dictated by the government that it had to do in manufacturing guns — no more, no less. But the decision to do more, he said, “came because I couldn’t answer the question, ‘Was I doing everything I knew how to do to prevent accidents?’ ” When he asked himself, “Would I put locks on our guns if it might save one child? The answer was yes.” It is a decision that seems particularly poignant given the recent Santana High School shooting in Santee, Calif., the latest in a string of tragedies involving firearms.

“I had to make those decisions based on the tradition of the company and my own beliefs of what’s right,” said Mr. Shultz, who still describes himself as “a rabid gun owner.” He said the formal agreement made sense because Smith & Wesson was already doing most of what the municipalities were asking for.

In the short-term, Smith & Wesson is suffering consequences that from a business standpoint might be considered tragic. What adds to the tragedy is that no other manufacturers followed Smith & Wesson’s lead and the deal ultimately unraveled.

“Shultz may have done something that was in the best long-term interests of the company — making it seem like a corporate citizen and just doing the right thing — but since the law doesn’t require others to do it, in the short run it may have hurt the company,” said Joseph W. Singer, a law professor at Harvard and author of *The Edges of the Field* (Beacon, 2000).

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Hardie inquiry finds legal failings

By Krista Hughes

September 22, 2004
The Age

The inquiry into James Hardie has pointed to significant failings in company law after the asbestos manufacturer was able to quarantine itself from responsibilities. Commissioner David Jackson stopped short of recommending an overhaul of corporations law, but said current rules appeared to be out of step with community expectations.

James Hardie cut itself off from its asbestos liabilities in 2001 by moving its headquarters overseas and putting the two subsidiary companies that manufactured asbestos products into a foundation.

The inquiry found the company misled the public when it claimed it had put aside enough money to meet its asbestos liabilities, which could now total $2.24 billion.

Mr Jackson said there was room to review laws that protect parent companies from the actions of subsidiaries. “The circumstances that have been considered by this inquiry suggest there are significant deficiencies in Australian corporate law,” the report said.

“The circumstances have raised in a pointed way the question whether existing laws concerning the operation of limited liability or the 'corporate veil' within corporate groups adequately reflect contemporary public expectations and standards."

The report noted a call from the Australian Plaintiff Lawyers Association to make the controlling entity responsible for any future liabilities. It said the suggestion would only affect parent companies, not all shareholders - who also use limited liability as protection from debts if a company collapses.

Treasurer Peter Costello said the Government had not had time to consider any need for corporate law reform. "I haven't read the report. But having said that, I will read it when I get the opportunity and, when I do read it, if there is a recommendation in relation to that, of course we will consider it very, very seriously," he said in Tasmania.

Opposition corporate governance spokesman Stephen Conroy said the report made it clear that existing laws were inadequate. "Labor will consider all of the options for reform, including counsel assisting's recommendation for reform of the Corporations Act so as to restrict the application of the limited liability principle, in respect of claims for damages for personal injury or death, to members of the ultimate holding company," he said.

The Australian Democrats said they would work with whichever party won government to make sure any loopholes in corporate law were closed. Democrats leader Andrew Bartlett said the James Hardie affair showed the importance of the Senate's work on corporate governance and audit reform and the need to keep the Democrats holding the balance of power.

From the *Report of the Special Commission of Inquiry into the Medical Research and Compensation Foundation* (September 2004):
"Mr Peter Cameron, who was in attendance at the [James Hardie Board Meeting of 15 Feb 2001 — he was still only a legal advisor to the company], emphasised that the directors needed to be conscious of their responsibilities as directors under the Corporations Law, and that directors could not provide the [proposed asbestos] trust 'with more than that for which [James Hardie] was legally responsible, without honestly believing that … what we were doing was of direct benefit to [James Hardie's] shareholders'" — the Jackson Report Volume 1, p.196.

ISSUES:

Usually doing the ethical thing costs in terms of the bottom line, unfortunately. Even in a case such as Smith & Wesson, where Mr Shultz believed that the firm would benefit from doing more than the law required for safety (by putting locks on all its guns), both the firm and Mr Shultz suffered. What would you have done (beware 20-20 hindsight)? How would you have justified this to the Board?

Leaving aside the deception and misbehaviour of James Hardie in 2001/2002, starving its subsidiaries (the main assets of its compensation foundation) of capital was not illegal under current Australian law, according to the Jackson inquiry. So how (if at all) should a firm in James Hardie's position four years ago have done more for the victims of its products than required by law? How would you, as CEO, have justified this to shareholders then? Or was their ethical responsibility clear-cut? Discuss.

CASE STUDY 14: Paying Whistleblowers?

Life After Whistle-Blowing

NYT, June 6, 2004
Sherron Watkins of Enron is interview by DEBORAH SOLOMON two years later.
A follow-up on the *Time* Persons of the Year 2002.

Q: *As the whistle-blower at Enron, you must find it strange to continue living in Houston.*

A: The only time it is awkward is when you run into the executives that are part of the guilty group. At least seven people have pleaded guilty, but they don't go to prison until all their witnessing is done.

So your former boss, Andrew Fastow, and his wife, Lea, are still your neighbors?

Our children play in the same park. Lea is going to prison soon, for 12 months. After she gets out, Andy will eventually go in. The last time I ran into her, she pretended she didn't see me.

Have you seen Ken Lay, your former C.E.O. whom you once pulled aside to warn about fraud?

No, I have not. He is keeping a pretty low profile. We had the Super Bowl in Houston this year, and he certainly wasn't spotted at any of the big Super Bowl events. He is persona non grata in the business group that runs Houston. He put a black eye on the city.

Do you think that post-Enron America is a more ethical place?

Not really. We are building more Enrons, but we don't want to admit it. I fall into Warren Buffett's camp when he says that C.E.O. pay is the acid test. When C.E.O. pay has been reduced, then I'll believe that our business leaders have adopted a spirit of corporate reform.

Whom do you consider the biggest offenders?

Wall Street sets the tone for the highest-paid packages. Citigroup paid Sandy Weill almost $45 million for 2003. But the real problem is where there is a disconnect, where shareholder return is low or negative, but the C.E.O. makes out like a bandit.

If the government were to demand a pay ceiling for C.E.O.'s in this country, what should it be?

J.P. Morgan said that C.E.O.'s should not make more than 20 times the average hourly worker. We're above 500 times right now! The average worker gets, let's say, $20 an hour. So the highest C.E.O. salary should be — let's just say it should be $1 million a year.

What were you earning as an Enron vice president when you left two years ago?

$165,000 a year. It was pretty good.

Did you get any kind of severance when you left Enron?

No. I am making a living on the lecture circuit, and that won't last forever.

You also co-wrote a book about your experiences at Enron. What would you like to do next?

I want to consult with boards on corporate governance issues.

Are you a Democrat or a Republican?

I am not a registered anything. I vote both parties. I did Vote for Bush. My husband did, too. Now we're A.B.B. — Anyone but Bush. We have lost the moral high ground in this country.

What is the connection between political lapses and business lapses?

Ken Lay's failure was that he just wanted to hear good news. It's the same with Bush. He doesn't want to hear the bad news about Iraq. Leaders have to be able to have their ear attuned to bad news too.

How would you define a good leader?

A good leader is someone who puts others' needs first. People follow you because they know you are looking after them.

Would you ever work for a corporation again?

About the only corporation I can see hiring me is one that is in a meltdown situation and trying to revamp its reputation.

Have any companies contacted you?

In terms of the bigger corporations, I have had people talk to me about various things, and then the door gets slammed. When it comes down to the final decision, there's probably one or two people who say: "Are y'all crazy? She's a whistle-blower."

Pay Urged For Whistleblowers In Corporate Clean-Ups

by Annabel Hepworth

18 November 2003
Australian Financial Review

WHISTLEBLOWERS should be given financial incentives for dobbing in white-collar criminals to help purge corporate Australia of price fixing and insider trading, according to a new report.

The reward of at least $10,000 could be bankrolled by fines on companies, according to the report, by the Australian National University's Bruce Chapman and a senior research fellow at the Australia Institute, Richard Dennis. "Offering financial incentives to individuals engaged in illegal activity in return for the provision of evidence against other participants could eliminate price fixing and insider trading in Australia," Mr Dennis said.

But Bob Baxt, practice group leader at Allens Arthur Robinson, said he did not think that paying whistleblowers would work. It could create problems and be counter-productive. "This type of thing is just going to [add a] mercenary flavour to it which I think will lead to it getting out of control," Professor Baxt said last night.

But the Australia Institute report argued that, given sufficient financial incentive, white-collar criminals could turn on one another because of the "probability that their co-conspirators will be the first to profit from revealing information to regulators".

The scheme would initially be backed by Commonwealth funding. In the case of collusion, companies would be fined, but the penalty would be paid as a percentage of future profits. For insider trading, the fines would be repaid from future income through the tax system reducing the chance of default.

Dean of Law at Melbourne University Ian Ramsay said it could prove hard for regulators to pay whistleblowers enough to convince them to betray their partners. "They may well do a cost-benefit analysis."

Minter Ellison Lawyers partner Anne Trimmer noted that people who dobbed in corporate criminals were often acting on an ethical impulse because they "see some public benefit or corporate benefit in blowing the whistle, rather than for any personal reward or gain".

ISSUES:
What is whistleblowing? Are whistleblowers inevitable? Is this a good thing? How important is it to protect whistleblowers? How important is it to encourage them? Would you employ Sherron Watkins, or Cynthia Cooper, or Coleen Rowley? What outcomes might paying whistleblowers lead to? Discuss.