

Casestudy:
DREDGING IN BURMA

Burma Centrum Netherlands (BCN)
versus
IHC Caland

On 13 July 1998, IHC Caland announced that SBM Production Contractors Inc, a (Swiss) subsidiary of IHC Caland, had concluded a contract with Premier Petroleum Myanmar Ltd, a (British) subsidiary of Premier Oil. The contract concerned the fifteen year lease of a floating oil storage platform in the development of the Yetagun gas fields off the coast of Burma. Under the leadership of the Burma Centrum Nederland (BCN) and the FNV, IHC was placed under pressure to divest. IHC was viewed as complicit in practices involving forced labour.

Societal Interface Management Challenges

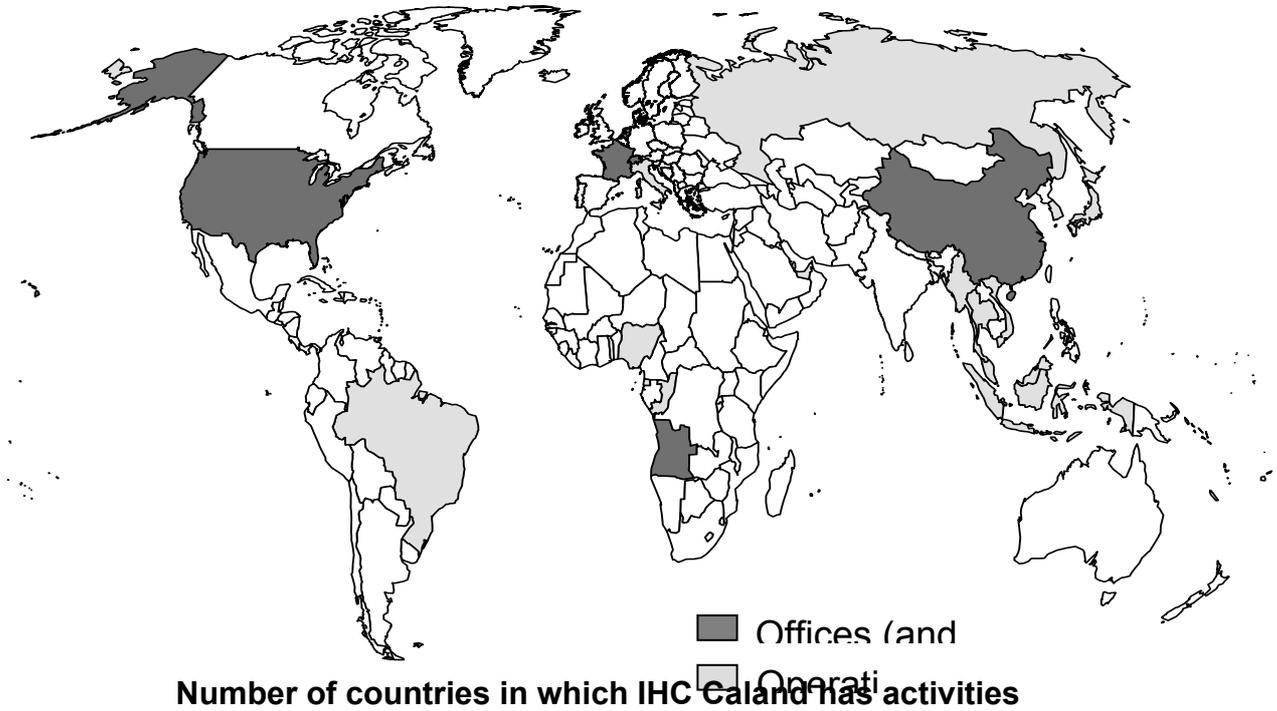
PUBLIC ✶ PRIVATE	PROFIT ✶ NON-PROFIT	EFFICIENCY ✶ ETHICS/EQUITY	
<p>Totalitarian regimes are an inter-governmental matter</p> <p>Given that Burma was not boycotted (except for the US) by individual governments, should a company do so?</p>	<p>Relationship with shareholders: difference between large and small investors?</p> <p>Citizens as customers: not relevant?</p> <p>Relationship with trade union movement concerning trade union rights</p>	<p>Efficient delivery of goods and services to industrial customers</p> <p>Capacity for a few large projects per year</p>	<p>Respect for human rights implies, among other things, the prevention of forced labour and observance of trade union rights</p>

This case has been written by Alex van der Zwart with Rob van Tulder (RSM Erasmus University). This case applies the methods and theories as used in the book "International business-society management: linking corporate responsibility and globalization" (2006, Routledge), www.ib-sm.org. The Dutch newspaper articles in this case have mostly been translated into English.

Last updated: January 2006



Based on sales by destination the TNI for 1998 is 86%
Source: IHC Caland 1999 AR p76

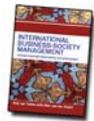


Nature of Operations	Eur	North	Latin	Asia	Afr
Offices	4	1	0	2	1
Shipyards	1	0	0	0	0
Offshore Operations and Construction Activities	1	0	1	4	4
Total countries	5	1	1	9	4

Note: current as of November 2004
Source: Email communication with IHC Caland

IHC Caland NV

IHC Caland NV (IHC) is a Dutch holding company of a group of international companies specialising in maritime technology. The Group's activities comprise the design, construction and supply of custom-built ships, oil dredgers and drilling installations, loading and offloading systems for tankers and offshore projects and platforms. IHC's customers are largely in the oil, dredging and mining industry. IHC is a market leader in this small, specialised international market (Kaptein and Wempe, 2002: 113). IHC Caland was listed on the AEX Index until 1999. At present it is listed on the Amsterdam Midkap Index. In 2001, IHC Caland's earnings amounted to 80,6 million euro. The company is now called SBM Offshore.



Conflict

In Myanmar, formerly Burma, two gas fields were being exploited by the British Premier Oil and the French Total. These gas fields yielded a few hundred million dollars per annum for Burma. On 13 July 1998, IHC announced that SBM Production Contractors Inc, a (Swiss) subsidiary of IHC, had concluded a 15 year contract with Premier Petroleum Myanmar Ltd, a (British) subsidiary of Premier Oil.¹ The order regarded the lease of a floating oil platform, which was to be used in the development of the Yetagun gas field approximately 215 kilometres off the Myanmar coast. The investment unleashed fierce criticism. Under the leadership of the Burma Centrum Nederland (BCN) and the labour union FNV, protest actions immediately to persuade IHC to withdraw from Burma. BCN demanded that IHC cancel the contract worth a few hundred million Dutch guilders. It argued that through such an investment, the company could be held responsible for assisting the junta to remain in power. But neither Dutch nor European legislation prohibited investment in Burma. The Ministry of Economic Affairs held that investment in Burma was neither encouraged nor discouraged. The EU had not yet instituted an economic boycott against Burma. France was particularly opposed to it. The US had already imposed a ban on new investments in Burma in 1997 in response to the PepsiCo affair.

Initially, IHC ignored the demands of the BCN but a week after the public announcement, managing director Bax expressed a willingness to develop a code of conduct. The code, however, would not specify from which countries the company would or would not accept orders; on that point, the company would use Dutch legislation as guiding principle.² In reaction to this, the FNV approached large institutional investors such as the Algemeen Burgerlijk Pensioenfonds (ABP), ABN Amro and ING with the request to sell their IHC Caland shares.

Burma Centrum Nederland



The Burma Centrum Nederland is an independent organisation which has the objective of keeping Dutch society informed about developments in Burma. Next to this, the BCN initiates and coordinates activities to promote democratisation and sustainable development in Burma. In this way, the centre strives to contribute to a constructive dialogue between the different parties in Burma. The Burmese regime is criticised for the systematic violation human rights and of having come into power in an illegitimate manner. Doing business in Burma necessarily implies support for the dictatorial regime. According to the BCN, the regime should be brought to its knees through a general boycott. At the time of the conflict, the ILO, the US and EU governments had already called for the suspension of further investment in Burma. The democratically elected political opposition leader, Aung Sun Su Kyi, also called on Western companies to exert pressure on the junta. According to the BCN, it was now up to IHC to follow the example of companies such as Heineken, PepsiCo, Texaco, Triumph, Carlsberg and others. Furthermore, XminusY and FNV also played a significant role in the affair.

¹ 'IHC Caland gets order oilstorage Burma', *FINANCIEEL DAGBLAD (FD)* (DUTCH NEWSPAPER, HEADING ORIGINALLY IN DUTCH), 14 July 1998.

² 'IHC contemplates implementing code of conduct', *FD* (DUTCH NEWSPAPER, HEADING ORIGINALLY IN DUTCH), 21 July 1998.



In August 1998, discussions between IHC and the BCN, XminY, Novib, the FNV and CNV followed. Since the discussions turned out unsatisfactory,³ the organisations decided to buy IHC shares themselves so as to obtain a voice at shareholder meetings. At the shareholder meeting of 24 August 1998, press attendance was greater than usual due to the anticipated actions of the BCN. Three bloodied victims of the dictatorship in Burma lay in front of the entrance of the Scheidam headquarters. One of the ‘deceased’ held a picture of Nobel Prize winner Aung San Suu Kyi, the political opposition leader who had been kidnapped by the junta.⁴

At IHC Caland’s next annual meeting on 4 June 1999, critical questions were raised, among others, by the BCN.⁵ The ABP gave IHC exactly one year to draw up an acceptable code so that it could be discussed at the next annual general meeting. The ABP owned three percent of IHC’s shares and companies in which it invested were required to provide a clear, verifiable framework against which investments in politically sensitive areas could be assessed.⁶

A second order

Despite the intense protests of 1998, IHC won a second contract in Burma in December 1999. The order was for a dredger and this time it was placed by the junta regime itself. Even the Lower House queried it.⁷ IHC maintained its standpoint that the government, preferably the UN or European Commission, was responsible for laying down the rules for consignments to countries known for human rights violations. IHC managing director, Bax had in the meantime been succeeded by de Ruyter.

The FNV persisted in its protest actions and dispatched letters to ABN Amro, ING and the ABP. This resulted in ABN Amro selling its shares at the end of April 2000. ING followed shortly thereafter.⁸ On the annual meeting of 26 May 2000, where the ABP once again raised critical questions, IHC announced the resignation of managing director de Ruyter. He had tried to pull the company out of the Myanmar swamp and again he called on politicians to set down rules for contracts with countries known for their human rights violations. He emphasised that within IHC, a consignment had ‘never before been discussed and philosophised’ as much as the one to Myanmar. De Ruyter developed a code of conduct for the company which was to guard employees against unethical conduct. At the same, time he went through with delivering the dredger to the controversial country.⁹

Unsatisfactory content of code of conduct

On 27 March 2001, the ABP announced that it had sold its IHC shares shortly after the 2000 annual general meeting due to the unsatisfactory content of the IHC code of conduct.¹⁰ At the

³ ‘Campaign against IHC inevitable’, *FD* (DUTCH NEWSPAPER, HEADING ORIGINALLY IN DUTCH), 8 August 1998.

⁴ ‘Done deals won’t be reconsidered by IHC’, *FD* (DUTCH NEWSPAPER, HEADING ORIGINALLY IN DUTCH), 25 August 1998.

⁵ www.fnv.nl, consulted on 19 July 2002.

⁶ ‘ABP pensionfund allows IHC one more year for their code of conduct’, *FD* (DUTCH NEWSPAPER, HEADING ORIGINALLY IN DUTCH), 5 June 1999.

⁷ ‘IHC Caland in the news due to Burma-order’, *FD* (DUTCH NEWSPAPER, HEADING ORIGINALLY IN DUTCH), 1 December 1999.

⁸ ‘ABN Amro bank leaves IHC Caland’, *FD* (DUTCH NEWSPAPER, HEADING ORIGINALLY IN DUTCH), 20 May 2000.

⁹ ‘Aad de Ruyter only leaves IHC with a code’, *FD* (DUTCH NEWSPAPER, HEADING ORIGINALLY IN DUTCH), 27 May 2000.

¹⁰ ‘ABP pensionfund also leaves IHC financially’, *Volkskrant (VK)* (DUTCH NEWSPAPER, HEADING ORIGINALLY IN DUTCH), 27 March 2001.



same time, the government of the Netherlands announced that IHC would no longer receive export subsidies. In its defense, IHC argued that the company acts in the best interests of its shareholders and if IHC did not carry out the consignment, someone else certainly would.

On 27 March 2002, the BCN, in collaboration with Novib and the FNV, attempted once more to put IHC under pressure. In a letter to 89 members of parliament, aldermen and managing directors of harbours and dredging companies, district councils, city councils and companies they called on the recipients to cease to do business with IHC.¹¹ On 8 April 2002, the Board of IHC announced that it would no longer accept assignments from Burma as long as the political and human rights situation in Burma did not improve. The Board took this decision upon the urgent request by Ybema, State Secretary of Economic Affairs.¹² The contract with the British Premier Oil which was running until 2015, however, was not cancelled. According to IHC, a breach of contract could lead to all sorts of unforeseen claims. Simply walking away would turn IHC into an unreliable contractor.¹³ Although the BCN was (relatively) satisfied with this first step, it continued to follow the activities of IHC, given that it was still lending support to the military regime. The decision of IHC was accelerated by the pressure from the institutional financial stakeholders ABP (pensions), ABN Amro bank and ING bank.

On 16 September 2002, the British oil firm Premier Oil announced its withdrawal from Burma. The decision taken under pressure from a number of large investors and due to the continuous protests of societal organisations.¹⁴ According to the BCN, IHC could no longer hide behind contractual obligations to Premier Oil. The interests of Premier Oil in the Yetagun Project, however, were transferred to Petronas International Corporation Limited (PICL), a Malaysian oil firm which did not alter the juridical contracting party; it remained Premier Petroleum Myanmar Limited. PICL even acquired a majority interest in Premier Petroleum Myanmar Limited. In response to enquiries from the Labour Party (PvdA) and the Democrats (D66), Minister of Foreign Affairs, de Hoop Scheffer asserted that he would not insist that IHC end the contract prematurely. The government would not pursue a policy of deterrence and the OECD guidelines would remain in force. Both the FNV and CNV submitted queries to the Dutch National Contact Point in connection with IHC. These are under discussion in consultation with the parties in question, including IHC.

Demonstrable indicators of reputational damage

Consumer market

IHC Caland operates largely in politically sensitive countries. IHC is a business-to-business company and not really susceptible to a consumer boycott of oil platforms and dredgers. Its customers are governments, such as the junta in Burma, and other companies, such as Premier Oil. In 1999, its turnover increased by 90 percent compared to 1998. At the end of 2000, its turnover decreased by almost 33 percent. Net earnings in 2001 increased by 7,2 percent.

¹¹ 'Call for boycott IHC Caland', *VK* (DUTCH NEWSPAPER, HEADING ORIGINALLY IN DUTCH), 27 March 2002.

¹² 'IHC Caland ends contracts with Burma', *VK* (DUTCH NEWSPAPER, HEADING ORIGINALLY IN DUTCH), 9 April 2002.

¹³ See previous

¹⁴ 'Premier Oil leaves dictatorship Burma', *NRC-Handelsblad* (DUTCH NEWSPAPER, HEADING ORIGINALLY IN DUTCH), 18 September 2002.



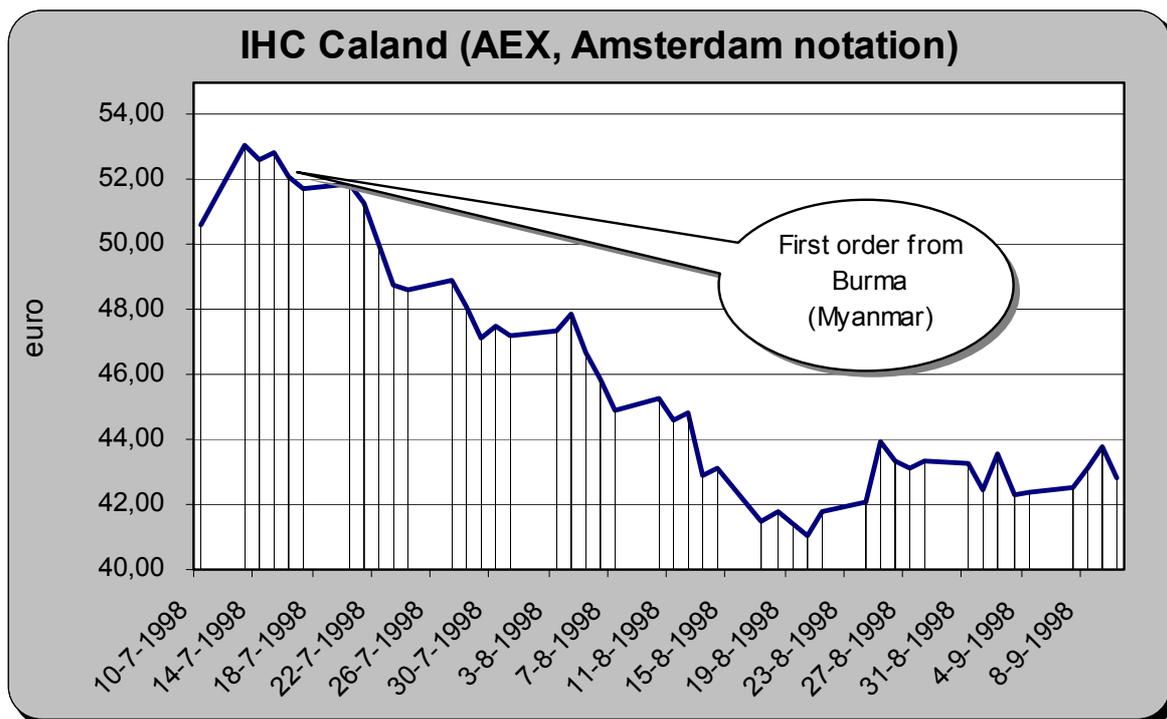
Due to the scale and term of worldwide contracts, it is difficult to establish whether these fluctuations can be related to the conflict surrounding Burma. It is not possible to establish whether IHC sustained reputational damage on the (business-to-business) consumer market. It was clear, however, that IHC feared reputational damage should it terminate contracts prematurely and acquire a name for being an unreliable partner.

Capital market

A number of responses from long-term investors were directly related to the controversy surrounding IHC in Burma. The ABN, ABN Amro and ING all sold their shares. In total, it pertained to approximately 5 percent of the shares IHC issues. The different parties sold their shares at different times. Some reputational damage has thus been sustained on the long-term capital market.

In order to assess whether the news concerning the CSR related issue had an effect on IHC's share price, a number of significant moments were selected and analysed.

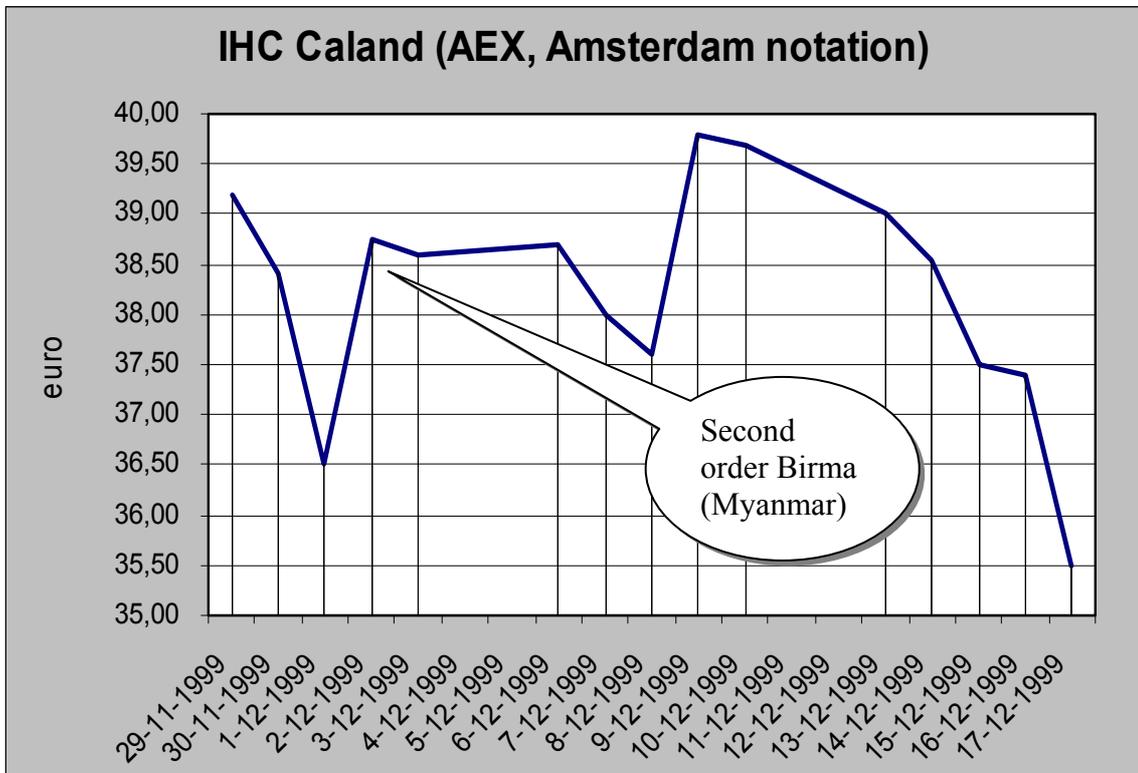
13 July 1998 – 10 September 1998. On 14 July, the media published reports about the controversial assignment of IHC in Burma. The figure below depicts the price movements of the IHC share.



In the wake of the large number of articles published in the media on 14 July 1998, the share price decreased by almost 1 percent, while the AEX Index increased by 1,6 percent. In the following weeks, the share price continued to decrease (at a quicker pace than the AEX Index) until the shareholder meeting on 24 August 1998. From the day before the Burma contract had been publicised up to the shareholder meeting, the share price suffered a decline of almost 29 percent, or a market value decline of 220 million euros.

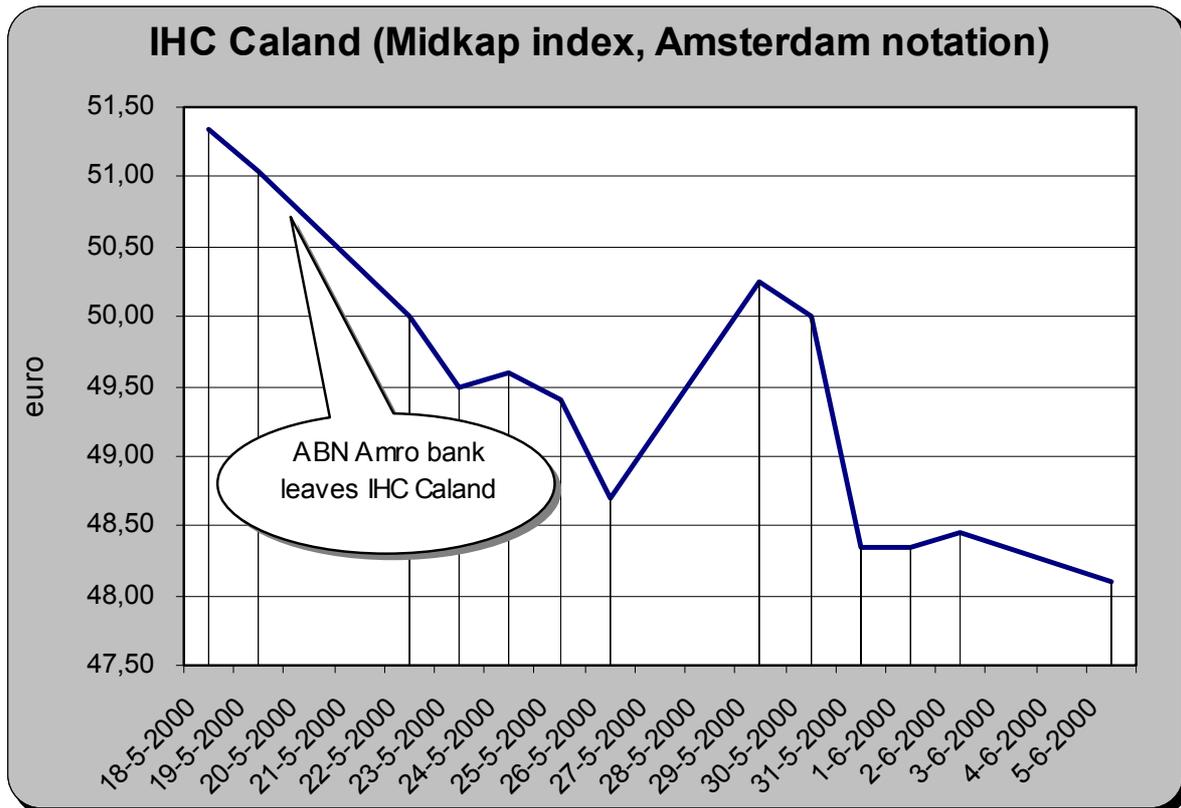


29 November 1999 – 17 December 1999. On 1 December 1999, a second controversial IHC order from Burma was announced. The next figure depicts the price movements of the IHC share at the time of the second controversial order from Burma.



On the day of the announcement, the share price decreased by 4,9 percent while the Midkap Index, on which IHC is listed, increased slightly. The following day, the share price increased significantly only to decline again after the company announced it would proceed with the order. By now, since the announcement of the first contract on 13 July 1998, the share price had decreased by almost 49,5 percent. Three weeks after the second contract was announced, IHC had lost another 80 million euros of its market value. Both the AEX as well as the Midkap Index exhibited an increase of approximately 4 percent.

18 May 2000 – 5 June 2000. On 20 May 2000, ABN Amro announced that it had sold its IHC Caland shares as a result of IHC's attitude in the Burma issue (see figure next page). The share price decreased by 2,1 percent and on the following day, it decreased by an additional one percent. The news of de Ruyter's resignation on 26 May 2000 was accompanied by a share price increase of 3,2 percent after the weekend. In the two weeks following the announcement of ABN Amro, the IHC share price decreased by 5,7 percent and the Midkap Index increased by 6,5 percent., IHC managed to regain its price level of 13 July 1998 only two years after the first controversial contract from Burma.



29 March 2002 – 19 April 2002. On 8 April 2002, at the presentation of its annual figures, IHC Caland announced that it would not accept any new orders from Burma, but that it would serve out the contract running until 2015. The third figure depicts the price movements of the IHC share during this period.

The price of the share increased by almost 2 percent on the day the (positive) annual figures and the news that the company would no longer accept new orders were announced. On the same day, the Midkap Index decreased by more than one percent.

Furthermore, government export subsidies to IHC were suspended at the end of 2000. This is keeping with the role the government decided to adopt with respect to CSR (see preface and Chapter 3). This is mentioned in the IHC annual report (IHC, AR 2000). In 2000, IHC had received an amount of almost 21 million euros.

Labour market

According to IHC, no demonstrable or noticeable reaction was registered on the labour market. Employees, however, had actively been approached by the FNV which caused some concern.¹⁵ FNV is evaluating their strategy towards their union members and want to look at the effectiveness of their approach. Does the action-oriented approach correspond with the views of the FNV union members?

¹⁵ ‘Campaign against IHC inevitable’, *FD* (DUTCH NEWSPAPER, HEADING ORIGINALLY IN DUTCH), 8 August 1998.



Demonstrable indicators of disciplining

In response to the increasing pressure in 1999, IHC introduced a code of conduct which was revised in May 2000.¹⁶ This code of conduct contains little reference to investment in countries with questionable regimes, but does mention the Universal Declaration on Human Rights. Since the introduction of a code of conduct did not settle the Burma issue, it can be asserted that this initiative did not satisfy the demand for self regulation.

The general attitude IHC Caland adopted can be described as buffering and very much shareholder-oriented. Evidence of a bridging attitude only became apparent in May 2002, when it was decided to stop accepting new orders from Burma.

Outcome

Whose interests were met?

In the final analysis, the interests of IHC Caland were acceded to most, although it was accompanied by thorough reputational damage as indicated by the actions of long-term investors. In May 2002, societal organisations made some gains by IHC's decision to freeze its Birmese orders.

Issue resolved?

The issue surrounding IHC's presence in Burma has not been resolved. The company will be operating in Burma for at least another thirteen years. Societal – non-governmental – organisations are seeking to step up the pressure on IHC. At the beginning of April 2002, the BCN called on travel agents such as Djoser, Shoestring and Koning Aap to suspend trips to Burma. Two travel agents immediately complied with the request.¹⁷

The Burma issue could perhaps take a turn due to the political changes the country has been undergoing since May 2002. The political opposition leader has been released and may participate in local politics again (to some extent, at least).

The aftermath

Despite protests from investors, shareholders, NGOs and the government, IHC Caland still has business interests in Burma. Due to the relatively small market it serves, each contract is of strategic importance for IHC.¹⁸ IHC is one of the last companies doing business in Burma. A large number of companies, among them ABN Amro, ING, Unilever, Philips, Heineken (see Chapter 10) and Shell have already withdrawn from the country. Since 2001, the government of the Netherlands has pursued an official policy of deterrence with respect to investments in Burma. Societal organisations are quite satisfied with IHC's decision to freeze its Burmese orders, but IHC is not rid of them yet. They will continue their struggle to persuade IHC to end the contract with Premier Oil.

¹⁶ www.ihccaland.nl/html/Company_procent20profile/companyprofile.html, consulted on 18 March 2002.

¹⁷ 'Call for boycott 'irresponsible' touroperator', *VK* (DUTCH NEWSPAPER, HEADING ORIGINALLY IN DUTCH), 10 April 2002.

¹⁸ 'IHC stays in Burma', *Algemeen Dagblad* (DUTCH NEWSPAPER, HEADING ORIGINALLY IN DUTCH), 5 June 1999.



In June 2002, the protest actions intensified once again. This time the issue was brought in connection with 'support for the drugs trade' in order to fuel the public debate. IHC Caland was allegedly involved with a consortium to which a questionable state corporation was party. This corporation was suspected of whitewashing drugs money.

In September 2002, Premier Oil announced its withdrawal from Burma after a high profile campaign by Burma Campaign UK.¹⁹ The IHC Caland contract with the consortium Premier Petroleum Myanmar Ltd, however, remained intact. IHC Caland still cannot find a justification to leave Burma.



¹⁹ www.burmacampaign.org.uk/aboutus.html consulted on July 6 2004.