

**International Codes Of Conduct
Trends, Sectors, Issues and Effectiveness**

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ACRONYMS AND ABBREVIATIONS

| | |
|---------|---|
| AAMA | American Apparel Manufactures Association |
| AFA | Athletic Footwear Association |
| AHRC | Asian Human Rights Commission |
| AIP | Apparel Industry Partnership |
| AMC | Association of Merchandising Corporations |
| BAUM | Bundesdeutscher Arbeitskreis für Umweltbewusstes Management |
| BSG | Business Support Group |
| BTHA | British Toy & Hobby Association |
| CAUX | Roundtable of business leaders from Europe, Japan and the United States |
| CCC | Clean Clothes Campaign |
| CCPA | Chemical Producers Association |
| CEFIC | European Chemical Industry Council |
| CEP | Council on Economic Priorities |
| CEPAA | Council on Economic Priorities Accreditation Agency |
| CERES | Coalition for Environmentally Responsible Economies |
| CHRA | Chinese Human Rights Alliance |
| CIIR | Catholic Institute for International Relations |
| CMA | Chemical Manufacturer's Association |
| EC | European Commission |
| ECCR | Ecumenical Council for Corporate Responsibility |
| EUROPIA | European Petroleum Industry Association |
| FAO | Food and Agriculture Organisation |
| FDKI | Association of Danish Chemical Industries (Foreningen af Danske Kemiske Industrier) |
| FIFA | Fédération Internationale de Football Associations |
| ICC | International Chamber of Commerce |
| ICME | International Council on Metals and the Environment |
| ICTI | International Council of Toy Industries |
| IEF | Industrial Environmental Forum of South Africa |
| ILO | International Labour Organisation |
| IO | International Organisation |
| ITTO | International Tropical Timber Organization |
| LO | Landsorganisationen i Danmark |
| MCCR | Minnesota Centre of Corporate Responsibility |
| MNE | Multinational Enterprise |
| NGO | Non Governmental Organisation |
| NRF | The National Retail Federation |
| OECD | Organisation for Economic Cooperation and Development |
| REEP | Race Equity in Employment Project |
| SA8000 | Social Accountability Standard |
| SIG | Social Interest Group |
| TIE | Toy industries of Europe |
| TNC | Transnational Corporation |
| UN | United Nations |
| UNCED | United Nations Conference on Environment and Development |
| UNCTAD | United Nations Conference on Trade and Development |
| UNCTC | United Nations Centre on Transnational Corporations |
| UNEP | United Nations Environmental Programme |
| UNICEF | Nations Children's Fund |
| WFSGI | World Federation of the Sporting Goods Industry |
| WHO | World Health Organisation |
| WTTC | World Travel & Tourism Council |

INTRODUCTION

In the course of the 1990s, almost every major company in the world either drew up and implemented a code of conduct or contemplated to adopt such a document to express its corporate social responsibility. But what does this trend actually mean? Are companies indeed increasingly becoming socially responsible and responsive to societal concerns? Is civil society becoming more effective in pressing for responsible business practices? And are governments correct in putting their hopes on corporate self-regulation? Or does this development merely represent better communication (PR) strategies, with codes of conduct as a new form of window dressing? And what can we say about the effectiveness of codes of conduct, from a societal and a managerial perspective? Do explicit codes help to tackle major present-day world problems (such as child labour, poverty, environmental degradation, income inequality and corruption)? And are they useful instruments to facilitate the multiple dilemmas involved in 'managing across borders' - the difficulties that multinational companies face when operating abroad?

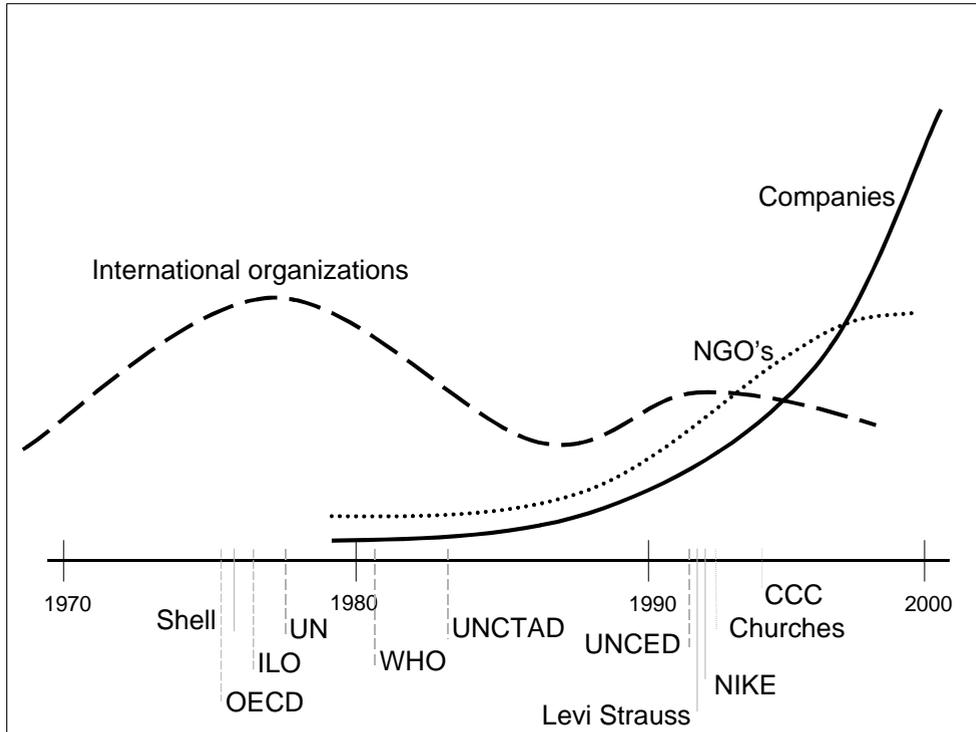
It is much easier to pose these questions than to answer them. The issue at hand is extremely complex, and research evidence and business experience practice is evolving only gradually. At the same time, however, the number of studies on corporate responsibility and/or codes of conduct has increased in the past few years, reflecting the growing relevance and maturity of the field (see the list of references).

This publication bundles four articles recently published in leading international business and management journals on codes of conduct. These articles share a common analytical framework, which was developed to obtain more insights into the above questions. These studies on codes are part of a long-term, encompassing research project on the international strategies of so-called 'core companies' (Van Tulder et al, 2001). Codes of conduct represent one of the ways in which particularly large multinational companies have taken up the manifold challenges of corporate social responsibility. It reflects a dynamic development in which the introduction of a code by one company, frequently in response to stakeholder expectations, very often leads to the adoption of comparable codes by others. This might, in turn, incite additional requests by stakeholders, which again requires a company response, sometimes in the form of an update of the code and a specification of policies. This is, in other words, a dynamic process. To be able to grasp the impact and relevance of codes of conduct, it is necessary to understand the dynamics that surrounds their introduction, implementation and further fine-tuning. Codes of conduct have not only been introduced by companies, but also by business associations, governments, international organisations and representatives of civil society, better known as Non-Governmental Organisations (NGOs).

Interest in the topic of codes of conduct started in the 1970s, when the international social and environmental behaviour of multinational companies was very controversial. Consequently, international organisations such as the Organisation for Economic Cooperation and Development (OECD), the International Labour Organisation (ILO) and the United Nations (in particular the UN Centre on Transnational Corporations) pioneered the idea of codes of conduct for multinational corporations (see figure 1). A few companies

reacted by adopting codes or introducing their own 'rules of engagement'. The overwhelming majority, however, resisted the pressure.

Figure 1: Waves of Codes of Conduct, 1970-2000



In the 1980s, after it turned out that mandatory codes were not feasible, only watered-down 'voluntary' codes remained. Despite a few initiatives by international organisations such as the World Health Organisation (WHO) and the United Nations Conference on Trade and Development (UNCTAD), the interest in codes of conduct withered away. Following a period of economic difficulties, governments adhered to a neo-liberal orientation of non-intervention, liberalisation and withdrawal. As a result, markets opened up and companies increasingly internationalised. These developments also created a societal and regulatory void in which NGOs started to express their concerns about the negative implications of international production and investment. Particularly multinational companies were urged to take their responsibility in this regard, and to introduce codes for their societal conduct. Leading NGOs, trade unions and churches came up with concrete suggestions for company codes. The challenge for codification of 'good practice' was first met by business associations such as the joint Chambers of Commerce or the Japanese employers' organisation Keidanren. An increasing number of individual companies, such as Nike, Levi Strauss and Shell, also responded by introducing codes of conduct in an effort to manage the interface with society. For Shell, this meant an update of its company code that was introduced already in the 1970s. For most other companies, the code was their first

statement on their (perceived) social responsibility and approach to it. As a result, the number of private company codes of conduct exploded in the last decade of the twentieth century. Measured by sheer numbers, companies now seem to take the lead in the 'voluntary' introduction and implementation of codes of conduct. To what extent this is really voluntary, and how effective this is for business and society in general remains far from clear, however.

It is equally unclear to what extent codes of conduct are effective in addressing issues of hunger, poverty, child labour, corruption, environmental degradation, and growing income inequality. Some argue that voluntary codes could even inhibit real progress with regard to these problems, because companies would never agree on strict and externally imposed compliance procedures. Besides, such a strict approach would resemble the 'old regime' of publicly imposed rules and regulation (legislation). Others argue that codes are the best approach feasible, not in the last place because most of the problems related to societal responsibility are international or even global. At the international level, no overall government authority exists that can introduce, implement and monitor laws. In spite of this absence of a central authoritative body, the number of international arrangements between states has boomed. Currently, two thousand multilateral agreements (agreed between three or more states) exist, and they establish norms and rules that govern a variety of global issues, ranging from maritime transport and taxation to labour and human rights (Simmons, De Jonge, 2001:9). Such agreements do, however, usually not include explicit sanctions, which makes it difficult to deal with non-compliance. In that international void, codes of conduct are supposed to fill in some of the regulatory gaps.

This publication summarises state-of-the-art research on international codes of conduct by providing a discussion of the literature, by presenting a framework to analyse such codes, and by giving evidence of different sets of codes as proposed by the various stakeholders. Together, the articles cover the four angles from which the phenomenon can be studied:

I. General trends and dynamics: historical trends in trying to deal with social corporate responsibility through codes of conduct, the evolution of initiatives taken by international organisations from the 1970s onwards, and the interaction with business (associations) and other (societal) stakeholders that formulate codes of conduct for multinational behaviour. Which trend predominates and which actors at the different levels (micro, meso and macro) formulate the most specific and stringent codes? What does this predict about compliance likelihood and effectiveness?

II. Sectors: a number of sectors such as the oil industry and the clothing/garment industry have been particularly active in proposing self-regulatory instruments. Against which background have such initiatives emerged? How does such a dynamic evolution unfold? And how do strategic characteristics and nationality influence the behaviour of companies with regard to codes of conduct? These questions are addressed in the case of one of the leading sectors - the sporting goods industry.

III. Issues: a growing number of societal issues are placed on the company agenda. Many of these issues are very complex (such as corruption, environment and human rights), but a few seem more straightforward and even relatively simple to deal with. Some people regard child labour as an example of a less complicated problem, and exert pressure on multinational companies to abstain from employing children in their international plants. Is this 'solution' and approach that straightforward? How do codes of conduct, as formulated

by companies, business associations, international organisations and NGOs, deal with this problematique?

IV. Effectiveness: are codes of conduct effective in promoting socially responsible behaviour on the part of companies, or can other approaches be as appropriate to deal with societal problems? Taking the issue of child labour as example, the effectiveness of codes of conduct is explored, focusing on leading companies in the garment industry. Company and stakeholders' opinions are presented, and the managerial implications are analysed.

The four angles overlap and interact, and thus lead to complementary insights. For each angle, various methodologies and sources of empirical evidence can be used. Examples include text analysis of codes of conduct, Delphi research to ask opinion leader views, benchmarking of a set of codes to a larger reference group, interviews and surveys. This illustrates the multitude of possible analytical and methodological perspectives that can be taken to grasp the intricacies of the topic. It should not come as a surprise that under such circumstances, simple 'how to do it' recipes do not exist. Insights also conflict: what is effective in one sector is not necessarily so in another, and it may also vary over time. With this collection of articles, however, it is possible to discern a number of common themes, research methodologies and insights from recent research. Additional research is under way, focusing on larger numbers of companies, other actors and sectors, and an analysis of nationalities and strategic peculiarities of companies. The ultimate goal remains to understand the degree of effectiveness of codes in dealing with the most daunting societal issues of the 21st century. What is clear already is that codes of conduct are only one of many dimensions of corporate social responsibility. You are invited to participate in this challenging research endeavour!

Rob van Tulder, Ans Kolk

Rotterdam/Amsterdam, April 2002

PART I: TRENDS

CAN TRANSNATIONAL CORPORATIONS REGULATE THEMSELVES?¹

Following a rather ill-fated wave of attention in the 1970s by international organisations such as the ILO, the OECD and the UN, international interest in codes of conduct has increased again in the course of the 1990s. The attention for codes has primarily been the result of the actions of critical consumer groups and other non-governmental organisations, and of the managers of multinational corporations themselves. These groups have started to think about social responsibility and self-regulating capacities in a more pro-active fashion. Social and financial performance seem to be linked. More recently, governments and international governmental organisations have also become involved again. This chapter examines 132 codes of conduct drawn up by four different actors: social interest groups, business support groups, international organisations and firms. The contents of the codes and their impact on addressing the regulatory void left by processes of globalisation is assessed. Complementary to the literature on codes of 'business ethics', this chapter's analytical framework centres on specificity and compliance mechanisms. The compliance likelihood, the probability that firms will conform to codes, not only depends on the contents of the code, but is also heavily influenced by the interaction of various stakeholders in its formulation and implementation. The content analysis of a large number of codes from the four different actors, supplemented by two case studies, gives an understanding of the dynamics and likely policy implications of that process. Voluntary TNC codes are showing clear potential in addressing instable socio-economic relations as a consequence of globalisation, provided other actors do not step aside.

¹ Codes of conduct analysed in this chapter

International organisations (n=11): EC, FAO, FIFA, ILO, ITTO, OECD, UN, UNCED, UNCTAD, WFSGI, WHO
Societal groups (n=13): AHRC, CCC – Code of Labour, CCC - Fair Trade, CEPAA, CERES, CHRA, Christian Aid, CIIR, Coalition for Justice, ECCR, LO, REEP, South African Council

Business groups (n=24): AAMA, AFA, AIP, AMC, BAUM, BTHA, CAUX, CCPA, CEFIC, CMA, EUROPIA, FDKI, ICC (1972), ICC (1991), ICME, ICTI, IEF, Keidanren, MCCR, NRF, TIE, UNEP-Banks, UNEP-Insurance, WTTC

Firms (n=84): ABB, ACCOR, AT & T, BASF, Bayer, Body Shop, Boeing, BP, Bristol-Myers Squibb, Burton Group, C&A, Cable & Wireless, Caterpillar, Chevron, Colgate-Palmolive, Converse, Dayton Hudson, Digital Equipment, Dow Chemical, Dress Barn, EDF, Electrolux, Exxon, Federated Department, Ford Motor, Gap-Code of Vendor, Gap-Environment, General Motors, Glaxo Wellcome, GTE, Halliburton, Hewlett Packard, Home Depot, HSBC Holdings, IBM, ICI, JCPenney, Johnson & Johnson, Jones Apparel Group, JPMorgan, Kellwood, Kmart, Koninklijke Ahold, Lands' End, Levi Strauss, Limited, Liz Claiborne, Lockheed Martin, Lyonnaise des Eaux, Matsushita, McDonnell Douglas, Mercantile Stores, 3M, Mizuno, Mobil, Motorola, Nestlé, News Corporation, Nike, Nissan, Northern Telecom, Novartis, PepsiCo, Petrofina, Pfizer, Philips, Prudential Insurance, Puma, Reebok, Rhone-Poulenc, Roche, Samsung, Shell, SHV, Siemens, Talbots, Toshiba, Total, Unilever, VF Corporation, Volkswagen, Walt Disney, Weyerhaeuser, Xerox

1.1 INTRODUCTION: RE-APPEALING A CONTROVERSIAL ISSUE?

At the January 1999 Davos session of the World Economic Forum, UN Secretary General Kofi Annan addressed the danger of socio-economic instability caused by processes of globalisation. Part of his speech covered an appeal to transnational corporations to cast universal principles in the areas of human rights, workers rights and the environment in voluntary corporate codes of conduct. The Secretary General's appeal comes at the end of a decade in which the topic of corporate codes of conduct has (again) reached high on the agenda of international policy makers, business representatives and opinion leaders. The statement also shows that, despite the large number of codes already drafted around the world by representatives of firms, governments and NGOs, the status of these codes is still unclear and their operationalisation probably inadequate for addressing the regulatory challenges of globalisation. This chapter presents a first step into the direction of more comparative and comprehensive research into the issue of voluntary corporate codes of conduct, their contents and whether they can help temper the Secretary General's worries.

The topic of regulating the behaviour of Transnational Corporations through codes of conduct has been a particularly controversial issue. The discussion attracted world-wide attention in the 1970s, when international organisations such as the International Labour Organisation (in 1977), the United Nations Centre on Transnational Corporations (1978) and the Organisation for Economic Cooperation and Development (1976) almost simultaneously tried to design codes of conduct. This debate was stimulated by governments of both developed and developing countries which faced major inroads of multinationals in their economies. Critical social interest groups also pushed the discussion further. The inability to come to an international agreement on the function, the wording and - especially - the sanctions for non-compliant firms, moderated the original intention to make the codes mandatory. Instead voluntary codes were agreed, which sorted only limited effects. The ILO code, for example, was adopted voluntarily by one firm, but after trade unions started to use the code in an industrial dispute with the firm's managers, no other firm dared to do the same.

In the 1980s, codes of conduct received rather scant attention. The codes of the ILO (the Tripartite Declaration of Principles concerning Multinational Enterprises) and the OECD (the Guidelines for Multinational Enterprises) performed an exemplary function (Getz, 1990). The boldest initiative to develop a code which stimulated transnational corporations to maximise their contribution to economic development, was the UNCTC's draft code. It never got rid of its 'draft' status, however. Finally, it was abandoned altogether in 1992,² in which the differences of interest between Northern and Southern countries played a large role (Van Eyk, 1995; WEDO, 1995). In the 1980s, the discussion on corporate codes of conduct was largely confined to 'business ethics', and was primarily held in the United States. A growing number of university centres and specialised journals focused on the study of business ethics. US firms had traditionally been interested in business ethics for a number of national reasons, particularly related to practices of litigation. The international dimension of the debate, however, remained limited and attention to business ethics in other than US firms rather modest (Langlois and Schlegelmilch, 1990).

² Therefore, UNCTC's draft code is not included in this study, whereas UNCTAD's 1985 Draft Code on the Transfer of Technology is analysed as one of the 132 codes of conduct (see footnote 1).

In the 1990s, the efforts to formulate (global) standards for TNC conduct re-emerged. Next to international organisations, governments and social interest groups, the firms themselves started to draw up codes in which they voluntarily committed themselves to a particular set of norms and values. They did this either individually, or under the coordination of particular business support groups, such as the International Chamber of Commerce (ICC) or sector organisations.

The discussion on regulating TNC activities as a specific issue - rather than business ethics in general - usually centres on three themes. Firstly, this involves the relocation debate or, more recently, the outsourcing of production facilities to low-wage countries with inferior labour conditions. In these countries, an appropriate regulatory framework to protect workers may be either missing or not implemented. In the case of outsourcing, meant to reduce costs, suppliers may resort to child labour, pay extremely low wages and deny workers basic rights such as freedom of association and collective bargaining. In 1992, Levi Strauss & Company developed the first corporate code of conduct which placed the management of ethics and labour rights in the context of international supplier relations (CEP, 1998).

A second point of contention centres on the co-operation with or implicit support for oppressive regimes. Ever since the revelation of ITT's involvement in the 1973 Chilean coup d'état has this argument been used. In the 1990s, for example, Royal Dutch Shell has been criticised for its relations with the Nigerian military regime and various TNCs, including Carlsberg and Total, for their activities or plans to invest in Myanmar/Burma. In 1997, Shell became the first TNC to fully adhere - in its code - to the principles set out in the 1948 Universal Declaration of Human Rights.

The third theme has been the environmental damage resulting from TNC operations (Kolk, 2000). In the 1970s, consciousness of the risks of industrial activities spiralled as a result of the Seveso dioxin leak and the Amoco Cadiz oil spill, followed almost one decade later by the explosion in the Union Carbide factory in Bhopal, the Rhine pollution by Sandoz and the Exxon Valdez oil spill. TNCs were also charged of relocating production facilities to developing countries to evade strict environmental regulations (the so-called pollution havens). From the late 1980s onwards, mounting public awareness of global environmental problems such as the destruction of the ozone layer, global warming and the destruction of tropical rainforests, has also led to renewed attention for TNCs (Kolk, 1998). It turned out to be a breeding ground for a large-scale mobilisation against the dumping of Shell's Brent Spar oil platform into the ocean and mounting distrust of oil TNCs in general.

As a result of these tendencies, at the end of the twentieth century, a plethora of codes and statements of corporate responsibility is being introduced and/or further refined. Not surprisingly, an overview of their contents and soundness, let alone their impact, is missing. Inventories by international organisations of existing codes, especially at the level of business support groups or at the topical level, are starting to emerge (ILO, 1998; Nash and Ehrenfeld, 1997; UNCTAD, 1996, UNEP, 1998). In addition, a number of critical consumer organisations, such as the US Council of Economic Priorities has started to analyse the contents of a large number of company codes on the issue of labour practices (CEP, 1998). Furthermore, private investors have become more interested in corporate responsiveness, because the impression exists that not only private investors are more interested in investing in ethically 'just' firms, but that these firms' performance in terms of market capitalisation is also better (cf. Van Tulder, 1999). In order to develop 'ethical'

(or 'green') investment portfolios, attempts are being made to create indexes of responsive business.

However, the indicators to assess the broad issue of socially responsible enterprises - and the function of corporate codes - are still under dispute (cf. Clarkson, 1995; Hopkins, 1997). Moreover, studies that systematically compare codes of firms from different countries are generally lacking. In addition, examinations of contents of codes from different actors - from governments, social interest groups and firms themselves - are also rather inadequate. Finally, the policy challenges offered by the interaction of - often rival - codes is hardly addressed.

This chapter focuses on these four areas. The first section deals with the relationship between corporate social responsibility and codes of conduct. Subsequently, the characteristics, contents and significance of international codes of conduct, defined for this purpose as written guidelines, recommendations or rules issued by actors within society in order to enhance corporate responsibility, are considered.³ Types of codes are delineated, distinguishing between the different actors which are active at the macro (governmental), meso (industry) and micro (firm) level. An analytical framework is developed and applied to 132 codes, which have been adopted at the different levels in the past three decades. At the micro level, this encompasses 84 corporate codes of (large) TNCs, which will receive specific attention; at the meso level, 24 codes drawn up by business support groups and 13 by social interest groups; and at the macro level, 11 codes drafted by international organisations. In the analysis, specificity and compliance mechanisms are seen as the crucial elements which determine the likelihood of compliance. Clear variations exist between the different types of codes. Finally, the concluding section discusses the policy implications of the present generation and proliferation of codes: can TNC codes alone modify socio-economic instability in the world economy?

1.2 CORPORATE SOCIAL RESPONSIBILITY, PERFORMANCE AND CODES OF CONDUCT

The notion of corporate social responsibility appeared first in the beginning of the twentieth century in the United States (Frederick, Post and Davies, 1992, p. 33). It was initiated by wealthy businessmen such as Carnegie who believed that firms should not only be concerned with profit-making. The emergence of this idea was also furthered by the concern over the imbalance created by the growing size and power of firms, which led to anti-trust legislation in the same period (Holmes, 1977, p. 433). These developments gave rise to the formulation of two general principles which can be seen as the roots of the modern concept of social responsibility: the charity principle and the steward principle (Frederick, Post and Davies, 1992, p. 33).

The charity principle is based on the idea that more fortunate people within society should take care of the less fortunate. In the absence of a social security system in the late nineteenth and early twentieth century, needy people depended on wealthier individuals. As demands

³ The word 'international' is used because an international perspective has been taken, focusing on those codes which deal with international social and/or environmental issues and involve TNCs. This is a different approach than, for example, Getz (1990), who only includes international organisations.

for support grew rapidly, the charitable load started to be taken over by firms: individual philanthropy became corporate charity. Corporate philanthropy is not synonymous with corporate social responsibility because it is not based on a duty or obligation but on 'the desire to do good' (L'Etang, 1995, p. 130). Nevertheless, it can still be considered as one of the pillars of current thinking in this area.

According to the second principle, corporate managers, who run privately-owned firms, are stewards or trustees able to act in the general interest rather than just serving their shareholders. Professional managers have been placed in the position of public trust and are, therefore, expected to act with a certain degree of social responsibility when making business decisions.

After its rise in the early twentieth century, attention for social responsibility diminished during the Great Depression of the 1930s and the Second World War, to re-emerge in the mid-1950s. It has since continued to be an issue, framed as corporate social responsibility, corporate social responsiveness or, in an attempt to merge the two, as corporate social performance (e.g., Carroll, 1979; Clarkson, 1995; McGee, 1998; Preston and Post, 1975; Wood, 1991; Zenisek, 1979). In the past two decades, this discussion has been influenced by stakeholder theory, with the field of business ethics adding moral duties and value systems (e.g., Amba-Rao, 1993; Ford and Richardson, 1994; Frederick, 1986; Freeman, 1984; Mitchell, Agle and Wood, 1997; Sohn, 1982).

Box 1.1: Principles of Corporate Social Responsibility

Principle of legitimacy:

Society grants legitimacy and power to business. In the long run, those who do not use power in a manner which society considers responsible will tend to lose it.

level of application: institutional, based on a firm's generic obligations as a business organization

focus: obligations and sanctions

value: defines the institutional relationship between business and society and specifies what is expected of any business

Principle of public responsibility:

Businesses are responsible for outcomes related to their primary and secondary areas of involvement with society [primary involvements are the essential tasks of the firm, secondary involvements the effects of these primary tasks].

level of application: organizational, based on a firm's specific circumstances and relationships to the environment

focus: behavioural parameters for organizations

value: confines a business's responsibility to those problems related to the firm's activities and interests, without specifying a too-narrow domain of possible action

Principle of managerial discretion:

Managers are moral actors. Within every domain of corporate social responsibility, they are obliged to exercise such discretion as is available to them, toward socially responsible outcomes.

level of application: individual, based on people as actors within organizations

focus: choice, opportunity, personal responsibility

value: defines managers' responsibility to be moral actors and to perceive and exercise choice in the service of social responsibility

Source Wood, D.J. (1991).

The most elaborated attempts to integrate these different strands can be found in the research on corporate social performance, which considers the principles, processes and outcomes. Building on Wartick and Cochran (1985), Wood (1991, p. 693) defined corporate social performance as "a business organization's configuration of principles of

social responsibility, processes of social responsiveness, and policies, programs, and observable outcomes as they relate to the firm's societal relationships". In this perspective, the concept of social responsibility encompasses three levels of analysis (society, firm and manager) with three accompanying principles (see box 1.1): at the societal/institutional level, the principle of legitimacy; at the organisational level, the principle of public responsibility; and at the individual level, the principle of managerial discretion.

There is still considerable debate on the measurement of corporate social performance. The outcome depends, for example, on whether one takes the societal or organisational level of analysis (cf. Hopkins, 1997). In all discussions, however, the codes of conduct issued by a firm figure prominently as an indicator of socially responsible business. The discussion on the relationship between social and financial performance is much less open to debate. Griffen and Mahon (1997) and Roman et al (1999, p. 121), who reviewed 25 years of research in this field, conclude that the vast majority of studies (with a wide variety of measuring methods) supported the idea that, at the very least, good social performance did not lead to poor financial performance. To the contrary, most studies point at a positive correlation. The issue is not yet fully resolved, however. Research on the performance of socially responsible firms has focused on market capitalisation of large sets of internationally operating firms. One indicator, the so-called Domini index, scored 400 firms over the 1990-1998 period with a systematically higher market capitalisation than those in the Standard and Poor 500 index (cf. Van Tulder, 1999).

Codes of conduct have relevance for all the three levels mentioned in box 1.1. Nevertheless, individual ethical principles are usually covered by internal codes of conduct, which consist of guidelines for staff on how to behave when confronted with dilemmas such as conflict of interests, gifts, theft, insider trading, pay-offs and bribery. This type of codes are not the subject of current debate because they hardly address the business-society relationship. This chapter focuses instead on firms' externally-oriented codes, and codes issued by other actors in society, which relate to the principles of legitimacy and public responsibility. Crucial questions to be addressed include to which society TNCs are responsible when acting internationally globally (home, host or both), how social control can be exerted and by whom, and how firms can cooperate effectively with different societal actors.

Moving from the principles of social responsibility to the processes of social responsiveness, the focus shifts to managerial action, to "the capacity of a corporation to respond to social pressures" (Frederick, 1978, pp. 154-155). This encompasses an analysis of the situation including an assessment of stakeholder demands and the development of appropriate plans. The contents of these managerial responses are embodied in environmental management, stakeholder management and issues management, which deal with the context, the actors and the interests. In the analysis of the codes of conduct, these features have been incorporated.

To some extent, this also applies to the third aspect of corporate social performance, the outcomes. In Wood's perspective, outcomes consist of social impacts, programmes and policies. Only the first, the social impact, can reasonably be assessed and used to draw conclusions about actual performance. For programmes and policies this is much more complicated; codes of conduct fall in the same category. What can be done, however, is to examine codes of conduct for their compliance mechanisms: monitoring, sanctions and financial commitment. Together with the specificity of the contents, they determine the compliance likelihood.

1.3 CODES OF CONDUCT: RATIONALES AND TYPES

The rationale for codes of conduct can be found in the business-society interface. Codes of conduct, therefore, encompass guidelines, recommendations or rules issued by entities within society (adopting body or actor) with the intent to affect the behaviour of (international) business entities (target) within society in order to enhance corporate responsibility. In this definition, the adopting body can be any societal actor, whereas firms are always the target. It should be noted that firms might design codes for other purposes than for the sake of their own ethical behaviour and corporate responsibility. It is highly conceivable that codes adopted by firms are in essence meant to influence other societal actors: regulators, customers, communities, suppliers and contractors, competitors or shareholders. The possibility that codes may serve other purposes than social responsibility as such is relevant when analysing their properties and substance.

Hence, two types of codes do exist. On the one hand, societal, non-profit actors may use codes of conduct to guide and/or restrict firms' behaviour, thus trying to improve corporate social responsibility. Adopting bodies are either governments or international organisations (at the macro level) or social interest groups (SIGs) such as consumer, environmental and minority organisations, trade unions and churches, at the meso level. On the other hand, codes can be drawn up by firms (micro level) or business support groups (BSGs, meso level) such as industry and trade associations, chambers of commerce, think tanks and business leaders forums. In these cases, codes serve for influencing other actors and/or for voluntary or anticipatory self-regulation.

With regard to the effect on other actors, one might think of new market opportunities, risk reduction, increased control over business partners or improvement of the corporate image. Except for control over business partners, which hints at codes potentially becoming strategic instruments, the other aspects are related to public relations. This could be seen with suspicion, as mere rhetoric (cf. environmentalists who accuse TNCs of 'greenwashing'), but also in a more straightforward, almost existential way, in that firms need a societal 'license to operate'.

Codes can also play a role in the relationship between the public and private sector. Firms generally resist excessive government laws and regulations which are seen to restrict their freedom of action. The chances of successfully preventing such 'command and control' increase if firms can convincingly show that they can regulate themselves. Self-regulation encompasses voluntary standards adopted by firms or their business support groups in the absence of regulatory requirements or those which are taken to help compliance or exceed pre-existing regulations (Hemphill, 1992). Thus, codes of conduct are drawn up to anticipate or prevent mandatory regulation.

Given these different rationales, the codes of conduct designed by four types of actors at the three levels will be analysed in more detail. In total, 132 codes have been collected (see Annex I for a full list). At the macro level, international organisations include ILO, OECD, UNCTAD and WHO. Of the 11 codes, 6 originate from the 1970s and early 1980s, and the remaining 5 from the second wave in the 1990s.

The micro level encompasses 84 codes drawn up by the largest TNCs in the world. Consequently, more than 60 belong to the 1997 global Fortune 500 ranking. A substantial number of the non-US Fortune 500 firms that were addressed (in particular Japanese and South Korean firms) did not have a code and were thus not included in the analysis.

Approximately 30% of the codes originates from European firms. The remaining codes were selected from firms that have been pioneers in this field (such as the Body Shop or the Gap). The analysis is based on the most recent version of firms' codes.

At the meso level, two types of actors' codes have been investigated. Firstly, it concerns social interest groups such as the Clean Clothes Campaign, the Council on Economic Priorities Accreditation Agency and the Coalition for Environmentally Responsible Economies; all 13 codes were accepted in the 1990s. Secondly, codes adopted by business support groups have been examined, ranging from Keidanren to the insurance industry and the World Travel and Tourism Council. With the exception of the International Chamber of Commerce's Guidelines for Multinational Investment (1972) and the Chemical Industry's Responsible Care (mid-1980s), all 24 codes are dated in the 1990s.

1.4 ANALYSING CODES OF CONDUCT: FRAMEWORK AND RESULTS

As public statements of corporate responsibility, codes of conduct differ in profoundness. Even after cursory reading one can notice that some codes are more thorough than others. This difference does not necessarily hinge on the number of issues covered by codes or on their prohibitory rules. The thoroughness rather depends most significantly on the compliance likelihood, which is the probability that firms will conform in practice to codes either proclaimed by themselves or developed by other actors, and that these claims will in fact be translated into responsible behaviour and action. Compliance likelihood is determined by the compliance mechanisms included in codes and the extent to which the claims put forward are measurable. The more specific the codes are, the better can they be measured and, subsequently, monitored. Monitoring is expected to enhance codes' comprehensiveness and compliance likelihood.

Hence, to determine the compliance likelihood of codes of conduct, two sets of criteria have been used: their specificity and compliance mechanisms. Table 1.1 gives a further specification of these broad categories into respectively seven and five elements. In the case of specificity, these are grouped in issues, focus and measurability. The different aspects will be briefly explained, also indicating how operationalisation has taken place.⁴

⁴ A more detailed description and justification of all the elements of the framework can be found in Welters and Van Tulder, 1997.

Table 1.1: A model to analyse and compare codes of conduct

| Criteria | | Short elaboration | Classification | |
|-------------|--------------------------------------|---|---|---|
| SPECIFICITY | ISSUES | 1.1 Social | employment (employment promotion, equality of opportunity and treatment; security of employment) training working conditions (wages and benefits; conditions of work and life; safety and health) industrial relations (freedom of association; collective bargaining; consultation; examination of grievances; settlement of industrial disputes) force (child labour; forced labour; disciplinary practices) | ranging from: 0 out of 5, to 5 out of 5 |
| | | 1.2 Environment | management policies and systems (subdivided into 4 aspects) input/output inventory (6 aspects) finance (2 aspects) stakeholder relations (7 aspects) sustainable development (3 aspects) | ranging from: 0 out of 5, to 5 out of 5 |
| | | 1.3 Generic | consumer interests (consumer needs; disclosure of information; consumer concerns; marketing practices) community interests (community involvement; disclosure of information; community philanthropy/sponsoring) global development (global issues; socio-political setting; fair and free trade practices; third world development; third world philanthropy/sponsoring) ethics (fundamental human rights and freedoms; fundamental ethical values; bribery and facilitating payments) legal requirements (legal compliance; compliance vis-à-vis business partners) | ranging from: 0 out of 5, to 5 out of 5 |
| | FOCUS | 2.1 Organizations targeted | general; firms; industries; business partners; internal operations of specific firms | general/firms/ industries/ partners/ internal |
| | | 2.2 Geographic scope | global (general); nearly global (frail); general region (moderate); regulatory system (moderate to strong); specific country (strong) | no/general/ frail/moderate/ moderate to strong/strong |
| | | 2.3 Nature | general prescription/description (general); predominantly general (frail); general and specific (moderate); predominantly specific (moderate to strong); specific (strong) | no/general/ frail/moderate/ moderate to strong/strong |
| | MEASURE | 3.1 Quantitative standards | % of issues quantified: >90% (predominant); 51%-90% (majority); 25%-50% (medium); 10%-25% (minority); <10% (few) ; none (no) | predominant/ majority/ medium/ minority/few/no |
| | | 3.2 Time horizon | quantification % of >90 (predominant); 51-90 (majority); 25-50 (medium); 10-25 (minority); <10 (few); none (no) qualitative division into none defined; vague; clear | ibid.; and none/ vague/clear |
| | | 3.3 Reference | none defined; home country; host country; international; or combinations | like preceding box |
| COMPLIANCE | 4.1 Monitoring systems and processes | good insight into system and process (clear); reference to some parts, but criteria or time frames are lacking (clear to vague); only general reference to monitoring without details (vague) | clear/clear to vague/vague/ none | |
| | 4.2 Position of monitoring actor | firms themselves (1st party); BSGs (2nd party); external professionals paid by firms (3rd party); combinations of different actors (4th party); SIGs (5th party); legal authorities (6th party) | ranging from: 1st to 6th party | |
| | 4.3 Sanctions | measures have no large implications, e.g. warnings and exclusion of membership (mild); threat to business activities (severe) | none/mild/ severe | |
| | 4.4 Sanctions to third parties | measures such as fines, or demands for corrective action (mild); severance of relationship, cancellation of contract (severe) | n.a./none/mild/ severe | |
| | 4.5 Financial commitment | classification according to level of fee or relative investment | low/moderate/ high/very high/none | |
| | 4.6 Management commitment | no commitment stipulated (none); includes a list of endorsing firms (explicit); or with regard to company codes, when business partners must sign it (explicit); commitment implied (implicit) | none/implicit/ explicit | |

1.4.1 SPECIFICITY

Issues: social, environmental and generic

Codes of conduct contain statements about social, environmental and more generic aspects, or all of them. Each of these issue areas is divided into five categories (numbered as I to V); these, in turn, consist of different but related individual components (indicated as 1 to 54). A code can address several issue categories, ranging from ‘zero out of five’ to ‘five out of five’.

The contents of the social policy of a firm seems to be approximated best by a number of Conventions, Recommendations and the Tripartite Declaration adopted by the International Labour Organisation (ILO, 1991). Four of the social issue categories in table 1.1 are derived from this tripartite declaration:

- employment (consisting of employment promotion; equality of opportunity and treatment; and security of employment);
- training;
- working conditions (wages and benefits; conditions of work and life; safety and health);
- industrial relations (freedom of association and the right to organise; collective bargaining; consultation; examination of grievances; settlement of industrial disputes).

A major shortcoming of the declaration is that it contains no provisions on child labour, an issue which has increased in importance in the international debate, and covered by another ILO convention. It is here included in a fifth social issue category designated as

- aspects of force (child labour; forced or compulsory labour; disciplinary practices).

Table 1.2: Number of social issues in different codes (in % of code type)

| | 0 | 1 | 2 | 3 | 4 | 5 |
|-----------------------------|------|------|------|------|------|------|
| International organisations | 36,4 | 18,2 | 0 | 9,1 | 9,1 | 27,5 |
| Societal groups | 7,7 | 7,7 | 15,4 | 0 | 38,5 | 30,8 |
| Business groups | 58,3 | 0 | 4,2 | 16,7 | 20,8 | 0 |
| Firms | 4,8 | 19,0 | 15,5 | 25,0 | 28,6 | 7,1 |

Table 1.2 summarises the results of the codes with regard to social issues, divided into the different categories. Social interest groups, followed by international organisations (IOs) and TNCs, include the highest number of social issues. The table also shows that a considerable percentage of BSG and IO codes do not deal with social issues at all; this applies to only 5 per cent of TNC and 8 per cent of SIG codes. To give an idea with regard to child labour, this is mentioned in 31 per cent of all the codes; 18 per cent of the IO codes, 62 per cent of SIG codes, and 29 per cent of both BSG and TNC codes.

To illustrate the dynamics of social codes, box 1.2 presents a short case study of the action-reaction patterns that have taken place in the process of formulation of such codes in the sporting goods industry. The box refers to the major actors of the sector which have also been included in the sample (see footnote 1).

Box 1.2: Case 1 Evolution Of Codes Of Conduct: The Sporting Goods Industry

In 1992, Levi Strauss was the first to adopt a supplier code, but NIKE followed very quickly in the same year with its Nike Code of Conduct. In response, Reebok - Nike's main US competitor - followed suit with its 'human rights production standard' - an almost identical code. The almost parallel adoption of supplier codes by firms in the US fashion and sporting goods industry indicates the importance of strong consumer action for their inclination to come up with codes. In 1993, the American Athletic Footwear Association (AFA) adopted a Statement of Guidelines on Practices for Business Partners, which is generally more vague than the NIKE and/or Reebok codes. Criticism did not stop, however. Social interest groups, such as trade unions and critical consumer groups, continued their actions against the socially dubious circumstances under which the suppliers, of US firms in particular, had to work.

The 1997 adoption of a Model Code of Conduct by the World Federation of the Sporting Goods Industry (WFSGI), another business support group, did not spur more specific codes of conduct. It merely offered a watered-down minimum guideline for firms, which were also advised to develop their own codes of conduct. A specific WFSGI committee did monitor child labour in Pakistan's soccer ball industry, which it tried to abolish with some success.

A very important trigger for more sophisticated codes was provided by a big customer and licensee of the sporting goods industry: FIFA, the international Football Association. In 1996, FIFA adopted a Code of Labour Practice, in cooperation with two important international trade unions. It is primarily a social code that describes compliance mechanisms in detail. FIFA is the monitoring party, and severe sanctions for non-compliance are included.

An equally important trigger for specific US codes was provided by the 1997 Workplace Code of Conduct by the Apparel Industry Partnership (AIP), initiated by the Clinton Administration in 1996 and commonly referred to as the 'President's Taskforce on Sweatshops'. The group included US apparel producers (such as Nike, Reebok and Liz Claiborn), social interest groups and business support groups. The code is more specific than any of the industry codes, is monitored by participating firms and independent monitoring actors, while sanctions are stipulated for third parties in case of non-compliance

Other important players in the sporting goods industry either developed very modest (Mizuno) or no codes (Adidas). The position of European producer Adidas is interesting. It has only reacted to international (such as FIFA) and industry-wide codes of conduct (such as the WFSGI 1997 code). Firm-specific and/or country-specific codes (such as AIP) are deemed counterproductive. Adidas, therefore, does not participate in or respond to these initiatives.

Hence, firms have taken important initiatives, but international organisations and national governments are still important to trigger codes with a higher compliance likelihood. In 1998, Nike revised its code and incorporated the higher standards set by the AIP code. One of the results has been an explicit reference to a minimum age of 14 for workers. Nike has progressed most on issuing independent monitoring and evaluation, and a relatively sophisticated penalty system for enforcing its corporate codes. It uses several independent monitoring actors - for example, by retaining Ambassador Andrew Young in 1997 to conduct a real independent assessment of Nike's code. Reebok has only worked with the accountants of Ernst&Young on one occasion, while the rest was monitored internally.

Source: Van Leeuwen, 1998

Moving to environmental issues, these are based on the 50 reporting ingredients used by UNEP and the consultancy firm Sustainability in a series of benchmarks (e.g., UNEP/Sustainability, 1996). While meant to analyse corporate environmental reports, many elements of this scheme can also serve to analyse codes of conduct, with some adjustments. A regroupment and condensation of the original 50 items has taken place to increase comparability with the other issue categories and to eliminate the ingredients which are non-environmental, covered in other parts of the framework or merely prescriptive (Kolk, 1999). The five UNEP/Sustainability categories are still used:

- management policies and systems (consisting of corporate environmental management strategy and vision; integrated environmental management; environmental assessment; research and development);
- input/output inventory (inputs; process management; health and safety; risk assessment; outputs; products);
- finance (financial aspects; environmental liabilities);
- stakeholder relations (employees; legislators and regulators; local communities; distributors; suppliers and contractors; customers and consumers; secondary stakeholders);
- sustainable development (technology cooperation; global environment; global standards).

Table 1.3: Number of environmental issues in different codes (in % of code type)

| | 0 | 1 | 2 | 3 | 4 | 5 |
|-----------------------------|------|------|------|------|------|------|
| International organisations | 27,3 | 18,2 | 9,1 | 18,2 | 27,3 | 0 |
| Societal groups | 46,2 | 30,8 | 7,7 | 0 | 0 | 15,4 |
| Business groups | 33,3 | 12,5 | 0 | 20,8 | 33,3 | 0 |
| Firms | 29,8 | 7,1 | 11,9 | 10,7 | 14,3 | 26,2 |

In table 1.3, an overview is given of the number of environmental issues mentioned in the codes. Of the 132 codes examined, a higher percentage does not deal with environmental issues (32%) than with social issues (17%). Especially SIG and TNC codes pay much less attention to environmental than to social issues. If they do, however, TNC, but also BSG and IO codes, include more issue categories than SIGs. Financial aspects of environmental issues are only mentioned by TNCs, in 25% of the codes. TNC codes make less reference to environmental liabilities (17%); as do SIGs (15%), IOs (9%) and BSGs (4%). SIG codes do not include statements on firms' cooperation with suppliers and contractors on environmental issues, BSGs (46%), TNCs (36%) and IOs (18%) do.

The third and final issue includes statements of a more general interest which do not fall under the headings 'social' and 'environmental'. Generic issues are mentioned less frequently in codes of conduct, less connected as they are to firms' operations. Five categories are distinguished here as well:

- consumer interests (consumer needs; disclosure of information; consumer concerns; marketing practices);
- community interests (community involvement; disclosure of information; community philanthropy/sponsoring);
- global development (global issues; socio-political setting; fair and free trade practices; third world development; third world philanthropy/sponsoring);
- ethics (fundamental human rights and freedom; fundamental ethical values (see Raiborn and Payne, 1990); bribery and facilitating payments);
- legal requirements (legal compliance of the firm; legal compliance vis-à-vis business partners).

Table 1.4: Number of generic issues in different codes (in % of code type)

| | 0 | 1 | 2 | 3 | 4 | 5 |
|-----------------------------|------|------|------|------|------|------|
| International organisations | 9,1 | 27,3 | 9,1 | 18,2 | 27,3 | 9,1 |
| Societal groups | 38,5 | 7,7 | 30,8 | 15,4 | 0 | 7,7 |
| Business groups | 20,8 | 37,5 | 25,0 | 8,3 | 4,2 | 4,2 |
| Firms | 13,1 | 15,5 | 19,0 | 25,0 | 13,1 | 14,3 |

As table 1.4 shows, SIGs exhibit least interest in generic issues, and IOs and TNCs most. Specific issue categories are salient. Reference to fundamental human rights and freedoms, as embodied in declarations and conventions, is made by 6% of TNC codes, 8% of BGSs', 18% of IOs' and 39% of SIGs'. Especially TNCs are notable for their much higher support when general statements on fundamental ethical values are concerned; these are mentioned in 51% of the TNC codes.

Focus

The more elaborated and focused codes are, the better they might be quantified or lead to measurable standards. This does not always apply, however: there are issues which can hardly be measured, although their statements may be very focused in qualitative terms, for example, when clear targets are formulated for participating organisations. Therefore, focus is an indication complementary to measurability when trying to assess the specificity of codes of conduct. The focus can differ with respect to the target, the geographic scope and the nature of codes.

The target of statements of corporate social responsibility are the organisations addressed by the code. These can be all organisations, firms in general, firms within a particular industry, business partners or specific firms. Codes are classified as least focused (general) when they aim at all organisations, which includes governments and firms. A frail focus implies that all firms are targeted, irrespective of the industry or firm-specific attributes. One step further in the direction of specificity (moderate) involves the objective to influence the behaviour of firms within a specific industry. When codes address the business partners of firms, that is their suppliers, contractors and distributors, their targets can be designated as moderate to strong.⁵ Such conditions can serve to regulate other firms' conduct, but also as self-imposed standards to select business partners. Finally, a strong focus means that codes affect the internal operations of specific firms. As can be seen in table 1.5, BSG and especially TNC codes are strong or moderate to strong with regard to the target. Aggregating these two categories results in 93% of the TNC codes. Codes adopted by IOs and, to a lesser extent, SIGs usually have a much more general or frail target.

⁵ This particular category covers the network of so-called core firms (Ruigrok and Van Tulder, 1995).

Table 1.5: Target of different types of codes (in % of code type)

| | None | General | Frail | Moderate | Mod/strong | Strong |
|-----------------------------|------|---------|-------|----------|------------|--------|
| International organisations | 0 | 45,5 | 36,4 | 0 | 18,2 | 0 |
| Societal groups | 0 | 30,8 | 30,8 | 23,1 | 15,4 | 0 |
| Business groups | 0 | 8,3 | 25,0 | 33,3 | 33,3 | 0 |
| Firms | 0 | 3,6 | 2,4 | 1,2 | 42,9 | 50,0 |

A comparable categorisation has been made with regard to the geographic scope. The least focused (general) are statements which apply to all locations. Slight more specific, but still very frail are those which are global except for a particular country or which refer to first or third world applicability. Moderately focused codes aim at firms in a specific world region (Asia, America, Africa, Europe); in the case of moderate/strong, they refer to regions which share economic and political institutions, such as the EU, with rules or regulations in place for elements of corporate social responsibility. Finally, a strong focus means that codes apply to (parts of) one country. The overwhelming majority of the 132 codes are merely global in scope (categories none, general and frail) (see table 1.6). This applies to almost all actors groups, but least for SIGs.

Table 1.6: Geographical scope of different types of codes (in % of code type)

| | None | General | Frail | Moderate | Mod/strong | Strong |
|-----------------------------|------|---------|-------|----------|------------|--------|
| International organisations | 9,1 | 63,6 | 9,1 | 18,2 | 0 | 0 |
| Societal groups | 23,1 | 38,5 | 7,7 | 0 | 15,6 | 15,4 |
| Business groups | 70,8 | 29,2 | 0 | 0 | 0 | 0 |
| Firms | 17,9 | 72,6 | 1,2 | 4,8 | 2,4 | 1,2 |

The third aspect of the focus relates to the issues included in the code instead of the code itself. The way codes address social, environmental and generic issues is expected to have a profound effect on the compliance likelihood. If issues are mentioned in general, leaving much for interpretation, they will be more difficult to monitor than a restrictive formulation. The nature of codes of conduct can be either to stimulate certain action (prescription) or to discourage or even forbid activities (restriction). Both prescription and restriction aim at a general set of guidelines or at specific positive or negative action. On the basis of these four types, the same categories have been distinguished: general (prescription or description); frail (predominantly general); moderate (balanced combination of general and specific); moderate/strong (predominantly specific); and strong (specific restriction and/or prescription). It should be noted that the nature cannot be assessed for all issues; social issues are covered by more codes and more easy to specify than environmental and generic issues.

Analysing the different types of codes, the picture with regard to nature is almost the reverse of target (cf. table 1.7 with table 1.5). Now, SIG codes, closely followed by IOs, are strong, containing specific restrictions and/or prescriptions. TNC and particularly BSG codes are predominantly general or frail. Balancing these different items, SIG and IO codes certainly have a stronger focus, although TNC codes have the potential to become more strict as the target has already been clearly defined. Moreover, 11% of the TNC codes has a strong nature, and 14% moderate to strong.

Table 1.7: Nature of different types of codes (in % of code type)

| | None | General | Frail | Moderate | Mod/strong | Strong |
|-----------------------------|------|---------|-------|----------|------------|--------|
| International organisations | 0 | 9,1 | 18,2 | 9,1 | 18,2 | 45,5 |
| Societal groups | 0 | 15,4 | 7,7 | 0 | 23,1 | 53,8 |
| Business groups | 0 | 45,8 | 33,3 | 8,3 | 4,2 | 8,3 |
| Firms | 0 | 40,5 | 20,2 | 14,3 | 14,3 | 10,7 |

1.4.2 MEASURABILITY

The degree of quantification, or the use of quantitative standards to define and operationalise definitions and concepts, increase the measurability of statements, which furthers effective monitoring and compliance. To arrive at a yardstick, the number of social and environmental issues addressed by a code is counted, calculating subsequently the percentage which has been quantified. If this applies to more than 90% of all issues, then the code falls into the category ‘predominantly quantified’. In decreasing rates of quantification, it can be labelled as ‘majority’ (51%-90%), ‘medium’ (25%-50%), ‘minority’ (10%-25%), ‘few’ (less than 10%) or none. In the codes, quantitative standards are not used very frequently; overall, ‘majority’ and ‘medium’ only applies to respectively 2% and 8% of the 132 codes. These percentages originate from TNCs: of these 84 codes, 3 have a majority and 10 a medium type of quantification. The category ‘predominantly quantified’ could be found in none of the codes.

The inclusion of a time horizon also adds to measurability and credibility (Burns et al., 1996, p. 19). As in any area of business, seriously operationalised goals are accompanied by a time planning. Whether this encompasses a short, medium or long term, however, depends on the issues at stake, which complicates a generally valid assessment for such a large variety. In view of the fact that the time horizon is a significant component, three broad categories are distinguished: none defined; vague and clear. In 14% of all the codes, the time horizon is clear, in 13% vague. Differentiating between the types of actors, IO codes have the highest percentage of clarity (27%, and 0% vague), followed by SIGs (15%, and 23% vague), TNCs (13%, and 10% vague) and BSGs (8%, and 4% vague).

In addition, the percentage of the issues with a time horizon can be calculated and classified, comparable to the preceding paragraph on quantitative standards. Time horizons with regard to monitoring are not included here, but as part of the monitoring systems examined below. In 9% of IO codes, more than 90% of the issues has a time horizon

(predominantly); this category does not appear in the other types of codes. A majority of the issues with a time horizon (50%-90%) can be found in 8% of the SIG and 2% of the TNC codes; another 2% of the TNC codes can be labelled as 'medium' (25%-50% with a time horizon).

The third component of measurability is the reference to standards. This issue is part of a broader debate on universal versus country/culture-specific codes, relevant in particular to TNCs. Box 1.3 gives some more background information on the nature of the dilemmas faced by TNCs.

Box 1.3: Case 2 Universality Or Specificity Of Principles?

Most disputed with regard to codes of conduct has been the issue of whether TNCs could/should adopt universal or country/culture-specific codes. This question touches the strategic heart of a TNC which has to consider how to manage across borders/cultures: by integrating and co-ordinating activities, or by loosely organised and relatively autonomous activities. Prahalad and Doz (1986) introduced a so-called 'integration-responsiveness' grid, which maps the dynamics of a business along the scales of pressure for global integration versus local responsiveness. The parallel with codes of conduct is obvious: a universal code refers towards global integration, a code that is more contingent upon host economy characteristics exemplifies a trend towards local responsiveness.

The research on codes of conduct - either issued by TNCs themselves or by international organisations - does not give conclusive evidence as to a particular trend in this respect. Whereas most codes adhere to host country standards (table 1.8), it is remarkable that TNCs are more prone to support general statements on fundamental ethical values, such as human rights. Few firms, however, explicitly support international standards issued by organisations such as the United Nations or the ILO. The debate on the exact elaboration of these ethical principles, however, is far from being resolved.

Royal Dutch/Shell, for example, has been among the early adopters of a corporate code of conduct. Its first code originated from 1976, after which it has been adjusted eight times. The most drastic update of Shell's code was in 1997, after the public discussion on the Brent Spar and the exploitation of Nigerian oil fields. It led Shell as the first TNC in the world to embrace the 1948 UN Universal Declaration of Human Rights. Shell was also the first large multinational that issued a 'social-ethical' annual report in 1998. Up to that date, only smaller and more overtly idealistic companies such as the Body Shop, Ben & Jerry's, the Danish SBN Bank and the English fair-trade organisation Tradecraft had issued such a report (VNO NCW, 1999, p. 37). Shell explicitly supports the aims of the 1998 ILO 'Declaration on Fundamental Principles and Rights at Work' (Shell, 1999, p. 28). Shell presents its commitment to human rights as a 'deep felt commitment and at the very heart of our core values of honesty, integrity and respect for people'. At the same time, however, Shell also notes that, despite good progress, it faces continued challenges and dilemmas. Shell cooperates with human rights' organisations which help guide its actions. Shell has searched societal debate and approval (cf. Shell, 1999) for its codes of conduct. It wants to show how seriously it takes its own code. In 1997, for example, 23 employees got fired for not complying to the firm's codes on corruption. Because of its global outlook, Shell seems to search more for global alliance partners, such as the Worldwatch Institute.

In the Integration-Responsiveness grid, Shell can be positioned as a 'global business' with an integrated product and a need for world-wide management - even though the firm consists of de jure relatively autonomous subsidiaries. The inclination towards universal norms, therefore, is understandable.

Another TNC of comparable bi-national (Anglo-Dutch) background is Unilever. Unilever's code stems from 1980 and, like Shell, has been adjusted several times. Compared to Shell, Unilever produces a large variety of products which are adapted to local consumer needs, and it therefore has to be much more locally responsive. Unilever's management does not agree with Shell's statement on universal (human) rights and its support of other international standards. Unilever contents in its code that there still is a considerable divergence in the meaning of (human) rights, that the Universal Declaration of Human Rights is open for debate on its exact elaborations in different countries. Unilever adapts more to local circumstances, rather than installing its own universal norms. Unilever's strategy aims at regional coalitions with interest groups.

US firms, such as IBM - one of the firms that initiated a corporate code already in the 1960s - tend to stress 'universal' principles in their codes of conduct. Japanese firms, such as Mizuno or Toshiba, stress adaptation to local customs and norms as exemplified by the statement which is used by many Japanese firms to become good 'corporate citizens'.

Analysing codes of conduct, it can be observed that some codes follow international standards closely whereas others only include a few references or none. Most codes use either host country laws or local industry practices as the basis for one or two issues, such as wages and benefits. Therefore, an overall conclusion about standards for the entire code is difficult to draw. General provisions on compliance, for example, that firms strive to comply with all applicable laws and standards, have been incorporated in 'generic issues'. Here, a distinction is made between international, home country and host country standards, and none defined (either no reference at all, or corporate or industrial standards). International standards include all conventions, treaties and (voluntary) agreements adopted by at least two countries (bilateral, regional, international). Codes sometimes allude to more than one standard, if they do at all. Especially a considerable number of BSG and TNC codes does not mention any standard (respectively 54% and 25%). The standard referred to most often in these private sector codes is those of the host country (in respectively 21% and 36% of the BSG and TNC codes). Home country standards, either alone or in combination with international or host country standards, are mentioned in 19% of the TNC, 17% of the BSG and 15% of the SIG codes. International standards only rank highest in the IO codes (54%), followed by SIGs (23%), TNCs (18%) and BSGs (8%).

Table 1.8: Measurability scores of codes on four criteria (strictest classes; in % of particular type of code)

| | Quantification | Time horizon (issues) | Time horizon (term) | Standards |
|-----------------------------|----------------|-----------------------|---------------------|-----------|
| International organisations | 0 | 9,1 | 27,3 | 72,7 |
| Societal groups | 0 | 7,7 | 15,4 | 69,3 |
| Business groups | 0 | 0 | 8,3 | 25,0 |
| Firms | 3,6 | 2,4 | 13,1 | 39,4 |

Table 1.8 summarises the four elements of measurability examined in this section. It has singled out the strictest classes of quantitative standards and time horizon's percentage of issues (aggregating predominantly and majority qualifications), of the more qualitative dimension of the time horizon (clear) and standards (summing up home country and international standards). In each of the cases, the percentage of codes in the specific category (IO, SIG, BSG and TNC) which contains this criterion is given. Overall, strictness is limited, except for standards where a relatively broad definition has been followed. Compared to the preceding analysis concerning focus, IO codes score higher on measurability than SIGs, again followed by TNC and BSG codes.

1.4.3 COMPLIANCE

The current debate on codes of conduct concentrates on compliance mechanisms, a broad term for implementation, monitoring, reporting, auditing, verification and enforceability.

These all serve to increase the likelihood of compliance. In this framework, five elements have been included: monitoring systems and processes; the position of the monitoring actor; sanctions to the firm; sanctions to third parties; and financial commitment.

Monitoring relates to the collection of information and the verification, that is to check whether it is accurate, complete, relevant and reliable. To characterise the quality of the monitoring provisions, four categories are used: clear; vague/clear; vague; and none defined. When a good insight into the monitoring process and system can be obtained, including the criteria for assessment, and its existence is well-known, codes are labelled as clear. Vague/clear means that some parts of the monitoring process are referred to, but that criteria for assessment or specific time frames are lacking. If codes give no further details other than that monitoring will take place, they are qualified as vague.

As can be seen in table 1.9, a very high percentage of BSG codes does not include any statement on monitoring systems and processes, TNCs score lowest in this respect; although the percentage does not differ much from those of IO and SIG codes. TNCs appear to recognise the importance of monitoring in general, as 65 out of 84 codes refer to it; only vaguely in 23 codes, vague/clear in 22 and clear in 20 codes. In decreasing order, the highest percentage of clear monitoring systems can be found in SIG codes (46%), followed by IOs (27%), TNCs (24%) and BSGs (8%).

Table 1.9: Clarity of monitoring systems and processes (in % of code type)

| | None | Vague | Vague/clear | Clear |
|-----------------------------|------|-------|-------------|-------|
| International organisations | 27,3 | 36,4 | 9,1 | 27,3 |
| Societal groups | 30,8 | 15,4 | 7,7 | 46,2 |
| Business groups | 62,5 | 12,5 | 16,7 | 8,3 |
| Firms | 22,6 | 27,4 | 26,2 | 23,8 |

Directly related to the credibility and effectiveness is the actor which monitors, particularly its independence. Although an independent monitoring party increases the compliance likelihood, the strictness of the code also plays a role. If the criteria are very strict, even a relatively dependent actor might suffice, whereas independence will be crucial when vagueness prevails. Six types of monitoring actors can be discerned:

- first party: the firms themselves;
- second party: business support groups such as trade and industry associations;
- third party: external professionals paid by the firm which is observed;
- fourth party: combinations of different actors (for example, business support groups and social interest groups);
- fifth party: social interest groups only, without involvement of the firm;
- sixth party: legal authorities.

Most codes, however, include no monitoring party (41% of all codes) or first-party monitoring (44%). Of the remainder, reference to the fourth party is most frequent (8%), while the fifth party is not mentioned at all. Even SIGs limit themselves to fourth-party

monitoring (in 31% of their codes); IO and TNC codes also allude to this (in 9% and 7% of their respective codes). Second-party monitoring is only mentioned by IOs (9%) and BSGs (4%); sixth-party monitoring only by IOs themselves (36%). The majority of TNC codes leaves monitoring to the firms themselves (58%); 32% refers to none.

This result of the analysis corroborates with the findings of the Council on Economic Priorities (CEP, 1998), which found that of the firms with sourcing guidelines for labour rights, only 44% actually monitors their implementation. The majority of these ‘monitoring firms’ do this internally, whereas only a very tiny proportion uses external auditors, consultants or non-governmental organisations. Interestingly enough, most firms that had established effective monitoring belonged to the Apparel Industry Partnership (AIP) referred to in box 1.2. Table 1.10 presents the percentages for the different categories of codes and monitoring parties.

Table 1.10: Monitoring party mentioned in different codes (in % of code type)

| | None | First | Second | Third | Fourth | Sixth |
|-----------------------------|------|-------|--------|-------|--------|-------|
| International organisations | 36,4 | 9,1 | 9,1 | 0 | 9,1 | 36,4 |
| Societal groups | 38,5 | 23,1 | 0 | 7,7 | 30,8 | 0 |
| Business groups | 75,0 | 20,8 | 4,2 | 0 | 0 | 0 |
| Firms | 32,1 | 58,3 | 0 | 2,4 | 7,1 | 0 |

Enforcement or sanctions relate to the consequences of non-compliance. The inclusion of sanctions in codes may deter firms from breaking their commitment, and increase the compliance likelihood. Coercive measures can vary greatly in gravity and impact. They are characterised as severe when business activities threaten to be terminated in case of non-compliance, and as mild when sanctions will have no large implications for firms, such as warnings and exclusion of certain membership. Severe sanctions are mentioned by 16% of the TNC codes, none of the BSG codes, 15% of the SIG and 9% of the IO codes.

Sanctions to third parties apply in particular to firms which use an outsourcing strategy and want to encourage subcontractors or distributors to comply with the code as well. A variety of codes have been especially designed for these contracting firms. Different types of enforcement measures can be identified.⁶ Here, these are labelled as mild (for example, fines or demand for corrective action) or severe (severance of the relationship, cancellation of a contract). Sanctions are classified as ‘not applicable’ if third parties are not mentioned, and as ‘none defined’ if codes refer to third parties but without sanctions. Considering only BSG and TNC codes, which seems most relevant here, 12 TNC codes contain severe sanctions to third parties (and 3 mild); this applies to 8 BSG codes (and 1 mild).

Finally, a higher financial commitment to the code is likely to positively influence compliance. If the codifying agency requires a high membership fee, the number of adopting firms will be smaller and social control higher. In addition to fees, an indication might be given in a code of the financial investments required (as a percentage of sales, or

⁶ See, for example, the sanctions mentioned by the US Department of Labour (1996, p. 66) in case contractors or suppliers violate US assemblers’ codes of conduct.

of total investments). For this purpose, financial commitment is categorised as ‘very high’ (if larger than \$500,000 or 5% investment), ‘high’ (between \$100,000 and \$500,000 or 1%-5% investment), ‘moderate’ (approximately \$50,000 or moderate investment) or ‘low’ (below \$10,000). As might be expected, codes requiring financial commitments are not very common. It does not at all occur in the case of IO codes, and in only 1 of the BSG codes (out of 24) is a low financial commitment involved. In SIG codes, only 2 out of 11 codes refer to it (one low and one moderate). With regard to TNCs, the numbers are higher: of the 84 codes, 2 require very high commitments, 6 high, 1 moderate and 2 low.

1.5 CONCLUSIONS AND POLICY IMPLICATIONS

Can the wave of attention for corporate social responsiveness in general and corporate codes of conduct in particular adequately address the instability involved in globalisation processes? This chapter considered this policy problem by first analysing the contents of a large number of codes that have been drafted by four groups of actors. Largely two clusters of codes could be distinguished: codes adopted by international organisations (IOs) and social interest groups (SIGs), and codes drawn up by business support groups (BSGs) and TNCs. International organisations and social interest groups designed codes primarily to guide and/or restrict firms’ behaviour, while the BSGs and TNCs draw up codes to influence other actors and/or to anticipate or prevent mandatory regulation.

Firms’ renewed attention for codes cannot only be interpreted as a defensive response to societal pressure. It should increasingly be understood as an effort to engage in a constructive dialogue with external stakeholders on the role of business in society. Codes - now more than ever before - have the function of deciphering the limits of regulation and the roles that should be played by governments, firms and representatives of civil society. Codes are an ‘entry to talk’. The agenda-setting potential of codes, therefore, should not be underestimated.

The potential for addressing current socio-economic problems is lowest for business support groups. Comparing the four actors initiating codes of conduct with regard to focus, measurability and compliance mechanisms, the codes issued by BSGs proved weakest on all scores. This reflects their ‘lowest common denominator’ principle: many of the meso codes succeed in attracting considerable numbers of subscribing firms because the statements are very vague. At the same time, this renders monitoring and sanctions useless, if they exist at all. One might see these codes as awareness-raising tools. However, once this function has been fulfilled, which currently seems to be the case, they become public relations and alibis for more drastic steps rather than active means to increase corporate social responsibility.

On average, TNC codes score better, especially concerning the organisations targeted, their reference to standards, monitoring systems and position of the monitoring actor. But half of the TNC codes focuses on the internal operations and, with only a few exceptions, nearly the other half on business partners (suppliers, contractors, distributors). Of the BSG codes, only one third applies to business partners, one third to a specific industry, whereas the remainder has a general orientation. Three fourths of the BSG codes makes no reference at all to standards or only to those of the host country; this is 60% in the case of TNCs. Finally, only one quarter of TNC codes clearly identifies monitoring systems and processes.

TNC codes continue to share certain national characteristics. The majority of codes is still initiated by US companies, US business groups and US NGOs. European firms are following, but have lagged behind US firms as yet. Japanese firms generally do not show much interest in the adoption of codes - let alone in their enforcement. In the early 1990s, this pattern was already noted with regard to the interest in codifying ethics. By then, European firms were expected to catch up with US examples only after 1996 (Langlois and Schlegelmilch, 1990, p. 524); which turned out not to be the case.

An important factor in this regard is the different way in which an international division of labour is incorporated into firms' strategies. US firms have been most advanced in internationalising their supply structures. Japanese firms have trailed relatively far behind, whereas European firms are somewhere in between (Van Tulder, 1999). With a more limited international division of labour in firms' own production network, the need to adopt international codes of conduct is lower. Therefore, the universal nature of voluntary TNC codes is bound to remain restricted. In the formulation of their codes, firms have to deal with the same tension between global integration and local responsiveness as they face in overall international strategic management (cf. Prahalad and Doz, 1986; see box 1.3). Coalitions with particular stakeholders might tip the balance to either side.

Most of the SIG codes are relatively new and drawn up after 1992. SIGs are gaining experience with requirements which are feasible for a sufficient number of firms and simultaneously substantial enough to really enhance corporate social responsibility. SIGs obviously want to avoid falling into the IO 'trap' of having to lower standards as a prerequisite for becoming accepted, in the process losing much of codes' original strength and meaning. From the exploratory analysis and comparison of the codes in this chapter, it can be concluded that the compliance likelihood of SIG codes is neither very high, although more than in the other types of codes, on the nature in particular. Measurability - with regard to quantitative standards and time horizons - is not high in SIG codes, and even lower than some of the TNC codes. This also applies to sanctions and financial commitment, which are part of the compliance mechanisms.

However, three fourths of the SIG codes do refer to home country and/or international standards, which is considerably stricter than the other types. A similar, stricter pattern can also be observed with regard to monitoring systems and the monitoring actor. Still, it is remarkable that substantial percentages of SIG codes do not refer to standards at all, do not specify or include monitoring systems and actors. The framework which has been used to analyse codes of conduct might perhaps also serve to identify their strengths and weaknesses, and future improvements. It should be noted that international NGOs, such as Greenpeace, do not develop codes themselves, but rather put pressure on firms to adopt and implement stricter codes.

The impact of codes issued by international organisations has remained modest. There currently is a very limited number of references to existing international standards in TNC and BSG codes. This hints, in the first place, at the unacceptability of universally applicable norms for TNCs. At the same time, it might indicate that there is a strong need for more up-to-date international codes. The codes of conduct initiated in the framework of the United Nations in particular have remained rather broad and rarely have they been taken seriously by member countries as sufficiently adequate and binding. Since the mid-1990s, and as a response, national/regional governments of developed countries have taken initiatives for more binding codes: suggestions by the European Parliament for a European code of conduct for firms, the AIP coalition (see box 1.2) and the revision of the OECD Guidelines

for multinational Enterprises can be cited as prime examples. More functional international organisations have also started to fill the void. To cite an example, in collaboration with international trade unions, FIFA has issued codes that share a high compliance likelihood.

These latter developments point at an important new phenomenon in the formulation and implementation of codes of conduct: the formation of coalitions between firms, international organisations and other actors. It seems that cooperation between the different actors results in more profound codes. Such coalitions can take a large number of forms and be initiated by different actors. In some cases, for example, TNC codes have had an impact on those developed by SIGs and IOs. As they sometimes go a step further than a few of the SIG and especially the IO codes, this helps to increase the acceptability of stricter requirements.

Although stricter than TNC codes on aspects such as nature and the position of the monitoring actor, the compliance likelihood of IO codes is generally not very great. This partly reflects their problematic status as some of them were abandoned due to conflict of interests and/or lack of support. Other codes were never intended to be put into practice, serving mainly as 'model codes' (ILO, 1998). The research on the contents of international codes initiated by governments also shows that policy competition between national governments often hampers more strict formulations. Firms might be better capable of developing cohesive codes that can also be implemented.

At the same time, international codes can trigger other regional coalitions. Following the UN Food and Agriculture Organisation's 1995 initiative to formulate a code of conduct for Responsible Fisheries, firms such as Unilever, together with environmental organisations, founded a 'coalition for sustainable fisheries' in the North Sea area. The beginning of an era of multilateral diplomacy can be witnessed in which TNCs, governments and NGOs bargain over the formulation and implementation of codes of conduct. This is likely to be a never ending 'process' as codes will continuously be drawn and redrawn on the basis of societal bargaining with new alliances of BSGs and SIGs being developed (cf. Van Tulder, 1999). Therefore, from a policy perspective, the interaction between the various actors initiating codes appears to be the most interesting development for the coming years.

Finally, monitoring and sanctions remain the most important test for the seriousness of codes' implementation. A noticeable development is that new monitoring agencies measure the compliance likelihood of codes as well as the impact on social performance. The Council on Economic Priorities, trade union organisations, and investment banks are becoming better able and more willing to judge codes' seriousness. The Social Accountability 8000 Standard, initiated by the CEP for use in regulating labour practices abroad, seems promising. The CEP initiative follows other initiatives with regard to international standards in areas such as quality management (ISO 9000) and environmental management (ISO 14000) (Kolk, 2000). The world's largest certification bodies are engaged in SA 8000's third party (independent) monitoring system, for which accreditation began in 1998. Extensive evaluation of such instruments is required, as viable monitoring procedures and credible coalitions of partners issuing codes will increase the significance of codes of conduct beyond the maxim 'words, words, words'.

PART II: LEADING SECTORS

CODES OF CONDUCT IN THE SPORTING GOODS INDUSTRY

The international operations of firms have substantial impact on the formulation and implementation of business ethical principles such as codes of conduct. The international sporting goods industry has been a pioneer in setting up codes and thus provides much relevant experience. Different sourcing strategies, degrees of multinationality and national backgrounds affect the contents of codes. Moreover, international (non-governmental) organizations prove equally effective in triggering sophisticated codes.

2.1 INTRODUCTION

Controversies about international labour standards have provoked a variety of initiatives by companies, non-governmental organizations, governments and international organizations. These initiatives have included codes of conduct, social labeling and investor initiatives (CEP, 1999; ILO, 1998; OECD, 1999; Sajhau, 1997; US DOL, 1997). These efforts have reflected attempts to arrive at more clarity concerning universal moral norms and the fundamental rights and duties of multinationals (Bowie, 1997; Donaldson, 1989).

The internationalisation of business is, however, also accompanied by the persistence of national traditions, cultures and regulatory practices. This applies to business ethics (Langlois and Schlegelmilch, 1990; Vogel, 1992), environmental policies (Kolk, 2000) and international innovation strategies (Pauly and Reich, 1997). Managers must continue to consider divergent societal and governmental pressures in home versus host countries, especially when levels of economic development differ, and develop mechanisms, strategies and programs for addressing cross-cultural diversity and conflicts (Buller and McEvoy, 1999; Donaldson, 1996; Jackson, 1997, 2000).

The convergence of national and international strategic peculiarities has been particularly pronounced in the international sporting goods industry. The industry is largely dominated by six companies equally distributed over the Triad: two from the US (Nike and Reebok), two from Europe/Germany (Adidas and Puma) and two from Japan (Asics and Mizuno). The American companies were much quicker in adopting corporate codes of conduct. In this process, and in the steps taken towards implementation and monitoring, continued pressure by trade unions, consumers, human rights groups and the government played a pivotal role. Other leading/dominant companies in this industry, but with different nationalities and international supply/production networks, followed different routes.

This chapter analyses the evolution of codes of conduct in the sporting goods industry - considered one of the 'best-practice' industries in the world as regards the introduction of

codes (Sajhau, 1997). This chapter examines monitoring and compliance mechanisms included in the codes adopted and proposed by companies, societal organizations, business support groups and international organizations. To obtain insight into the relative position of the industry, the codes applying specifically to this sector are compared to a reference set of 132 codes (cf. Part I). The compliance likelihood and the stringency of a corporate code still largely depend on the interaction of various stakeholders in its formulation and implementation. The case of the sporting goods industry suggests that this dynamic process is heavily influenced by the domestic context and the nature of the industry, but also by the structure of companies' international production networks (Ruigrok and Van Tulder, 1995; Whitley, 1999).

2.2 A CASCADE OF CODES

In the 1990s, a wave of voluntary company codes appeared, triggered by attention for developments which posed great legitimacy problems to firms, such as (tacit) support for oppressive regimes, international environmental damage or outsourcing to countries with inferior labour conditions. Well-known examples are the problems associated with investing in Burma, human rights in Nigeria, oil spills in Alaska, the Brent Spar affair in the North Sea and sweatshops in Asia.

As a response, an increasing number of companies started to draw up codes to voluntarily commit themselves to specific norms and values. These codes have been developed either individually or under the co-ordination of business support groups, such as the International Chamber of Commerce. Business initiatives interacted with the continued work of international organizations, governments and social interest groups, resulting in a veritable 'cascade of codes' (OECD, 1999).

A prominent example of this particular interaction has been the sporting goods industry, which consists of sports equipment and apparel, and athletic footwear. Throughout the 1990s, the sector bred a wave of codes drawn up by different actors. Table 2.1 gives an overview of the relevant codes in the sporting goods industry, identifying the main reasons for adoption.

In addition to three Business Support Groups (BSGs), three Social Interest Groups (SIGs) and three International Organizations (IOs), four leading companies in the sector developed their own codes of conduct. Nike adopted a Code of Conduct & Memorandum of Understanding in 1992. Together with Levi Strauss & Co., Nike became one of the earliest adopters of a code of conduct on labour rights with its suppliers (CEP, 1998). Since then, the company revised the code a few times: first to incorporate the 1997 standards developed by the Apparel Industry Partnership, and subsequently to take account of Nike's new labour initiatives. Reebok, also criticized for its labour practices in Indonesia in the early 1990s, drew up its Human Rights Production Standards in 1992. Reebok had traditionally supported human rights causes, witnessing the company's opposition to Apartheid in 1986, sponsorship of Amnesty International's concert tour and the creation of the Reebok Human Rights Award, both in 1988.

Table 2.1: Overview of Codes of Conduct Relevant to the Sporting Goods Industry

| Name of code of conduct | Year | Type of actor | Reason for adoption |
|---|---------|---------------|--|
| ILO's Tripartite Declaration of Principles concerning Multinational Enterprises and Social policy | 1979 | IO | to regulate the conduct of multinational corporations |
| Nike's Code of Conduct & Memorandum of Understanding | 1992 | company | a combination of external pressure of SIGs and the media, and internal willingness to accept responsibility |
| Reebok's Human Rights Production Standards | 1992 | company | a combination of external pressure of SIGs and the media, internal commitment to human rights, and follow-up to Nike's initiative |
| Athletic Footwear Association: AFA's Statement of Guidelines on Practices of Business Partners | 1993 | BSG | out of concern for the practices of business partners, and political and social issues in host countries |
| Puma's Human Rights Undertaking to Observe Universal Standards | 1995 | company | to maintain its present international standing and business reputation |
| Mizuno's Code of Business Ethics | undated | company | to express responsibility towards society |
| American Apparel Manufacturers Association: AAMA's Statement of Guidelines | undated | BSG | to express commitment to fair and rational practice of business |
| Fédération Internationale de Football: FIFA's Code of Labor Practice | 1996 | IO | to recognize the responsibilities to consumers and workers |
| Apparel Industry Partnership: AIP's Workplace Code of Conduct | 1997 | BSG | to find a solution to the problem of sweatshops and respond to consumer concerns |
| World Federation of the Sporting Goods Industry: WFSGI's Model Code of Conduct | 1997 | IO | to ensure that member companies satisfy the highest ethical standards in the global marketplace |
| Clean Clothes Campaign: CCC's Code of Labor Practices | 1997 | SIG | to improve the working conditions in the garment industry |
| Council on Economics Priorities Accreditation Agency: CEPAA's SA8000 | 1997 | SIG | to provide a standardized, global system for companies interested in assessing, monitoring and influencing the social accountability of their suppliers and vendors, as well as their own facilities |
| Nike's revised Code of Conduct | 1998 | company | to incorporate AIP standards in its code |
| Nike's revised Code of Conduct | 1998 | company | to incorporate Nike's new labour initiatives |
| Asian Human Rights Commission: AHRC's Human Rights Charter | 1998 | SIG | to promote awareness and realization of human rights in the Asian region |

Following the two American market leaders, Puma adopted a Human Rights Undertaking to Observe Universal Standards. The leading Japanese producer Mizuno, finally, adopted a Code of Business Ethics, which is primarily oriented at internal ethical behaviour, providing a fundamental standard of ethics directed at its operations and employees. The Mizuno code was adopted in the course of the 1990s, but even after direct consultation with the company it was not possible to pinpoint its exact date. This illustrates the more organic way in which (internal) formal and informal codes develop in Japan.

The two remaining leading companies (Asics and Adidas) do not have a code of conduct. When requested, Asics referred to its overall corporate philosophy, containing three sentences, of which only one includes social issues very generally: 'We contribute to local prosperity by fulfilling our social responsibilities as a company'.⁷ Adidas did not develop an own code, because it favours one industry-wide code as drawn up by the World Federation of Sporting Goods Industry (WFSGI), falls back on national legislation in production locations and overall 'considers individual company agreements to be counterproductive'.⁸

Codes developed by business support groups or social interest groups can be defined as meso codes. Meso-level actors are neither connected to international organizations nor directly linked to individual companies. They lack any strict legal authority and direct managerial influence on companies. When companies adopt BSGs' or SIGs' codes of conduct, these organizations automatically acquire some influence on corporate policies. Industry-level initiatives are also dubbed as 'club goods' since it is impossible to price the discrete units of goodwill benefits they generate, whereas some of the benefits are excludable and to be appropriated only by club members (Prakash, 2000: 187). All three BSGs that have introduced influential codes in the sporting goods industry come from the US: the American Apparel Manufacturers Association, which has a brief statement of guidelines for all its member companies, the Athletic Footwear Association, and the Apparel Industry Partnership (AIP). Of these BSGs, the AIP has been most notable for its relative stringency and broad, though not uncontested, support from different actors. The AIP Workplace of Conduct followed from a White House meeting in 1996, where companies, labour, consumer, human rights and other societal organizations met, and subsequently formed a voluntary, industry-driven partnership (Hemphill, 1999). Of the six companies mentioned, only Nike and Reebok participated.

Three Social Interest Groups (SIGs) codes, from three different continents, can be identified as relevant. The European SIG code, the 'Clean Clothes Campaign' (CCC) was established in the Netherlands by a foundation supported by different groups campaigning for child rights in Bangladesh, India and the Philippines. The CCC developed a Code of Labour Practices for the Apparel Industry including Sportswear, which currently serves as a point of reference in negotiations with companies. CCC aims at applying a Clean Clothes label in 2001.⁹ The Asian code is the Human Rights Charter adopted by the Asian Human Rights Commission. A very large number of Asian non-governmental organizations contributed to the Charter, aiming to further the discussion on the concept and enforcement of human rights. The US Council on Economic Priorities created a Council on Economic Priorities Accreditation Agency (CEPAA) in 1997 and published a Social Accountability standard (SA8000). Members of its advisory board are representatives from SIGs, certification agencies and companies. Of the six companies in the sporting goods industry, none is currently a board member. None of the approximately fifty production sites that have been certified since May 1998 involve the sporting goods industry.¹⁰

⁷ <<http://www.asics.co.jp/corp/english.htm>>, website last accessed 27 May 1999.

⁸ <<http://www.adidas.de>>, website last accessed 27 May 1999.

⁹ E-mail communications with N. van Loon, CCC, 31 May 1999.

¹⁰ Data per 1 June 2000. A company more or less related to the sporting goods industry, Toys 'R' Us, is a member of the advisory board and is developing programs for supplier certification (CEPAA Update, 2 (1), March 2000 and <<http://www.cepaa.org>>, website last accessed on 8 June 2000).

Finally, three International Organizations have played an important role in the sporting goods industry. The International Labour Organization (ILO) code originates from the 1970s and is still used as one of the most important reference codes. The World Federation of the Sporting Goods Industry (WFSGI), which associates the sports industry world-wide, formed a Committee on Ethics and Fair Trade in 1995. This Committee monitors the Pakistan Soccer Ball/Child Labour Initiative aimed at the elimination of child labour. WFSGI formulated a Model Code 'designed to serve as a model for companies committed to ensuring that their operations satisfy the highest ethical standards in the global marketplace'. The Fédération Internationale de Football Associations (FIFA) can exert direct influence over its licensees/companies by its ability to issue and withdraw licenses to produce its goods. Recognizing its responsibility to consumers and workers, and having co-operated with international trade unions, FIFA adopted a Code of Labour Practice in 1996.

2.3 ANALYSING THE CONTENTS OF CODES

All thirteen codes are of particular relevance to the sporting goods industry. They have been analysed for their specificity and compliance mechanisms. The more specific codes are, the better they can be measured and, subsequently, monitored. Monitoring can enhance the codes' comprehensiveness and the likelihood of compliance. In addition, the reference group of 132 codes, specified in part, was used to compare the different codes with the average of a more embracing set of codes.

Table 2.2 summarizes the characteristics of this reference group of codes. The micro level of reference codes is based on 60 codes of firms belonging to the 1997 global Fortune 500 ranking. This sample represents most relevant big firms that adopted a code. Approximately 30% of the codes in the reference group are from European firms. The remaining company codes were selected from pioneering firms like the Body Shop, Toys 'R' Us, The GAP and Levi Strauss. Macro level codes include most of the relevant international organizations. Meso level codes include those codes that - according to an expert panel - have been most influential.

Table 2.2: Specific Codes and the Reference Group

| Category | Sporting goods industry's relevant codes of conduct | Reference group codes (including sporting goods) |
|------------------------------------|---|---|
| micro: company codes | N = 4 (Nike, Reebok, Puma, Mizuno) | N = 84 (75% Fortune 500 firms, 30% European, pioneers in codes) |
| meso: business support groups | N = 3 (AAMA, AFA, AIP) | N = 24 (including Keidanren, ICC, BAUM, CAUX) |
| meso: social interest groups | N = 3 (CEPAA, CCC, AHRC) | N = 13 (including CERES, CHRA, CIIR, Coalition for Justice, LO) |
| macro: international organizations | N = 3 (ILO, WFSGI, FIFA) | N = 11 (including FAO, OECD, UN, UNCTAD, WHO) |

Table 2.3 lists the scores of the thirteen codes of the sporting goods industry, applied to the model of analysis specified in Part I (table 1.1)

Table 2.3: Specificity and compliance mechanisms included in codes of conduct in the sporting goods industry

| ISSUES | CRITERIA | Company codes | | | | | SIG codes | | | IO codes | | |
|-------------|---------------------------------------|--|---|---|------------------|--|--|--|----------------|-----------------------------|---|--|
| | | Nike | Reebok | Puma | Mizuno | CEPAA | CCC | AHRC | ILO | WFSGI | FIFA | |
| SPECIFICITY | 1.1. Social | 4 out of 5 | 4 out of 5 | 4 out of 5 | 1 out of 5 | 5 out of 5 | 5 out of 5 | 5 out of 5 | 5 out of 5 | 4 out of 5 | 5 out of 5 | |
| | 1.2. Environment | 2 out of 5 | none | none | 1 out of 5 | 1 out of 5 | none | 1 out of 5 | none | 1 out of 5 | none | |
| | 1.3. Generic | 2 out of 5 | 1 out of 5 | none | 2 out of 5 | 2 out of 5 | 2 out of 5 | 3 out of 5 | 3 out of 5 | 4 out of 5 | 1 out of 5 | |
| FOCUS | 2.1. Organizations targeted | business partners | business partners | business partners | internal | general | industries | general | general | business partners | business partners | |
| | 2.2. Geographic scope | general | general | general | general | general | general | moderate to strong | general | general | no | |
| | 2.3. Nature | frail | moderate | moderate to strong | general | strong | moderate to strong | strong | frail | moderate to strong | minority | |
| MEASURE | 3.1. Quantitative standards | minority | minority | medium | none | few | minority | none | none | minority | minority | |
| | 3.2. Time horizon | none | none | none | none | vague | vague | clear | none | none | none | |
| | 3.3. Reference | host/home country | host country | host country | none | international, host/home country | international, host country | international, host country | host country | international, host country | international, host country | |
| COMPLIANCE | 4.1. Monitoring systems and processes | vague | vague to clear | none | vague | clear | clear | clear | vague to clear | vague | clear | |
| | 4.2. Position of monitoring actor | first/third party | first party | none | none | first party | fourth party | third party | fourth party | first party | fifth party | |
| | 4.3. Sanctions | none | none | none | vague | mild | severe | vague | none | none | severe | |
| | 4.4. Third party sanctions | none | none | none | n.a. | mild | severe | n.a. | n.a. | none | severe | |
| | 4.5. Financial commitment | no | no | no | no | none | yes | no | no | no | no | |
| | 4.6. Management commitment | Nike: implicit; business partners: explicit, code is binding | Reebok: implicit; business partners: none defined | Puma: implicit; business partners: explicit, must sign document | Mizuno: implicit | Company: implicit; business partners: explicit | Companies and business partners: explicit, code is binding | Company: implicit; business partners: explicit | none defined | none defined | WFSGI members/business partners: explicit | FIFA licensees, contractors: certification |

2.3.1 COMPANY CODES

The similarities between the company codes of conduct in the sporting goods industry are substantial. Mizuno's code is company-internal, whereas Nike, Reebok and Puma have externally-oriented codes aiming to monitor the conduct of their business partners. As a result, the number of social issues addressed in the latter three companies' codes is higher than Mizuno's code.

No great differences exist between the current Nike, Reebok and Puma codes concerning 'focus' and measurement criteria. The organizations targeted are the company and its business partners, while focusing on world-wide operations. The Nike and Reebok codes describe the nature of the issues in general terms, whereas Puma is more specific, which gives the latter more credibility in effective monitoring. Relatively speaking, Puma also uses more quantitative standards. Concurrently, however, Puma includes fewer issues and quantifies the same standards as Nike and Reebok. Overall, therefore, they 'score' more or less the same.

Comparing the sporting goods codes with the reference set of company codes (table 2.2), all three stand out for their degree of quantification, as 61% of the 84 reference codes do not include any quantitative standard. None of the sporting goods codes specifies a time horizon, which also characterizes the overwhelming majority of all reference company codes. Puma and Reebok only refer to host-country standards, Nike also to those of the home country. The Nike position is exceptional also relative to the reference codes in that only 19% of the reference company codes examined refer to home-country standards, either alone or in combination with international or host-country standards.

Compliance mechanisms are not very well developed in the three company codes. None of them describes monitoring systems and processes extensively. Puma's code does not deal with compliance, while Nike and Reebok only state that suppliers should maintain relevant documentation and information in case of inspections. Of the whole set of reference company codes, one quarter clearly stipulates monitoring systems and processes. The sporting goods sector is slightly more involved in monitoring than the average company from the reference group. Only Nike's latest codes mention the possibility of third-party monitoring (by a designated auditor). Such third-party monitoring is very exceptional; it is included in only 2% of all the reference company codes (another 7% refers to fourth-party monitoring, 58% to first-party monitoring while 32% does not mention it at all).

None of the three sporting goods codes refers either to sanctions (for the adopting companies or their business partners) or to financial commitments. The lack of sanctions is rather common for company codes in general. Management commitment is implicit for Nike, Reebok and Puma, and explicit for their business partners who must agree to comply with it. Such explicit commitment applies to one third of all company codes.

Table 2.3 includes the latest version of Nike's code only. Compared to the 1992 code, the latest version deals with an additional social and an environmental issue. The number of quantitative standards increased slightly, the reference to standards from host country only to home and host, and a minimum working age has been added. With regard to monitoring, the third party has been added, while the code has become binding for business partners. Comparing the most recent versions, only home-country standards have been added in the last one. In addition, Nike has repeatedly increased the minimum age: while it was 14 in

one of the 1998 codes, its most recent code mentions 18 years for footwear and 16 for apparel, accessories or equipment.¹¹

The analysis of compliance mechanisms shows that the way in which the code will be translated into actual behaviour is not clear. This puts existing critique into perspective: when codes do not reveal compliance mechanisms, the probability of compliance by companies and their business partners decreases, thus also lowering codes' credibility. It makes it also very likely that other stakeholders keep introducing alternative codes, whilst the pressure on companies to engage in more credible forms of self-regulation remains.

2.3.2 CODES OF BUSINESS SUPPORT GROUPS

The BSG codes of the sporting goods industry primarily aim at social issues. A comparison of the three shows that the AAMA code is rather concise, describing a few issues generally without paying attention to measurement criteria and compliance mechanisms. The AFA code, in turn, includes more issues than AAMA's, indicating some measurement criteria, compliance mechanisms and sanctions to third parties. The AIP code surpasses the other two: it specifically describes issues, uses all measurement criteria, provides detailed monitoring principles for participating companies and independent external monitoring actors, and proscribes sanctions to third parties. Thus, the AIP code has the highest credibility and compliance likelihood.

When the three codes are compared to the reference set of BSG codes, the AAMA statement scores below average on almost all aspects; this can be explained from its relatively limited objectives. The AFA code reflects the median. The AIP is stricter on nearly all aspects, except for sanctions, where it is comparable, and management commitment, which is implicit rather than explicit as in most BSG codes. Both AAMA and AFA have produced 'club goods'. Club goods generally score weaker than private goods (the voluntary codes of the firms themselves). The present case study underpins the results of other research (Kolk et al., 1999; Prakash, 2000) in which it has been suggested that industry-level codes tend to adopt the lowest common denominator. As soon as others participate in the design of the code (the AIP case) codes contain a higher compliance likelihood and therefore a greater credibility.

2.3.3 SOCIAL INTEREST GROUP CODES

The CCC and CEPAA codes differ considerably from those of the AHRC. Firstly, CCC and CEPAA (SA8000) have an industry focus, while AHRC is meant for a specific region (Asia). Secondly, the CCC code targets companies, trade associations and employers' organizations; SA8000 companies; and the AHRC Charter governments and public opinion. Thirdly, the CCC code and SA8000 aim to improve labour practices in developing countries; the AHRC Charter aims to strengthen, enforce and protect human rights in general. Finally, contrary to the AHRC Charter, the CCC code and SA8000 are meant to be enforced by other organizations. The AHRC Charter is intended solely to create awareness and promote the development of human rights.

¹¹ <<http://nikebiz.com/social/labor/code.html>>, website last accessed 27 May 1999.

Reflecting these diverging objectives and targets, the codes' contents also differ substantially. Compared to the other two, the AHRC Charter includes neither measurement criteria nor (adequate) compliance mechanisms, although reference to standards (international, home and host country) is comparable to CEPAA, but stricter than CCC. It is remarkable that the AHRC code nevertheless scores considerably higher on average than the reference SIG codes. Only measurability and financial commitment is comparable and management commitment lower.

Particularly strict in the CEPAA and CCC codes are monitoring systems and processes, and management commitment. The CCC code envisages monitoring by an independent body consisting of trade union organizations, trade associations, employers' organizations and NGOs, and includes severe sanctions for companies and third parties. In SA8000, monitoring will be done by the company itself, while sanctions are vaguely indicated. An important point for both codes, however, is that they cannot be put into practice unless an organization endorses voluntarily. Both CEPAA and CCC are much stricter than the reference SIG codes, CCC even more than CEPAA in most cases. SA8000 is less strict than the reference SIG codes, but more or less comparable to the average BSG code in the reference group. This makes it more likely to be embraced by industry associations and a good candidate for adoption by firms that not yet developed their own code (for example, because these firms did not yet know how to deal with external monitoring).

2.3.4 INTERNATIONAL ORGANIZATION CODES

All three macro (IO) codes focus on labour practices in particular. WFSGI and FIFA aim specifically at the sporting goods industry, whereas ILO has a much broader target group.

The different purposes of the sporting goods codes - FIFA adopted a regulating code and WFSGI a voluntary, guiding code - particularly come to the fore in the compliance mechanisms. WFSGI has included neither independent monitoring nor sanctions. Member companies can use the model code to regulate their own business practices and those of their partners, but are not obliged to do so. This diminishes the probability of effective implementation and control. In spite of the fact that it is the weakest of the three codes examined here, the WFSGI still scores around average in the reference set of IO codes, except for standards and monitoring actor (lower) and management commitment and measurability (higher).

The ILO code is somewhere in between the two sector codes with regard to the monitoring system and monitoring party, but without sanctions and management commitment. On monitoring system and party, it is stricter than the reference IO codes. Compared to both industry codes, the ILO code has a clear time horizon and is strong in nature as it prescribes specific positive actions. On the other hand, it does not include child labour, whereas both sector-specific codes do (as well as all the other twelve codes, except for Mizuno's internally-oriented code).¹²

The compliance likelihood of FIFA's code is very high. It stipulates the monitoring process, system and criteria, in which FIFA functions as monitoring party, and can impose

¹² By January 2001, ILO's 1973 Minimum Age Convention, seeking total abolition of child labour, has been ratified by 103 countries, and ILO's 1999 child labour treaty, aiming to eliminate the 'worst forms of child labor', by 56 countries (data derived from ILOLEX, see Kolk et al., 2001).

severe sanctions on licensees and their business partners. If companies fail to abide by the code, the right to produce or organize the production of FIFA-licensed goods can be withdrawn. With these peculiarities, the FIFA code is considerably stricter than the reference IO codes.

Comparing these findings with the other codes in the sporting goods industry, the only other code with comparable enforceable instruments is AIP's - the remainder do not include adequate compliance mechanisms.

2.4 UNDERSTANDING DIFFERENCES

How can we understand the differences between stricter coding in the sporting goods industry and the general picture, and between the companies within the sporting goods industry, with some having a relatively strict code and others none at all?

As for sector peculiarities, the sporting goods industry has a clear consumer focus, in which company and brand image - including the issue of negative customer response - play an important role. Especially Nike is known for the large sums of money spent on marketing and advertisements, and for setting up large-scale publicity campaigns with famous - independent and free-spirited - athletes. The contrast with the child labour employed in the production of their products could not have been greater. The main reason for the drastic changes in consecutive versions of the 'voluntary' company code in the 1990s thus was the (risk of potentially) severe damage to the company's image by negative publicity.

There were two additional aspects that increased Nike's and Reebok's vulnerability to societal pressure. Firstly, almost all Nike and Reebok footwear is produced outside the US by subcontractors in the Asia-Pacific region. Only specialized and technical components of a strategic nature are manufactured in the US; with these suppliers, Nike holds a direct, long-term and exclusive relationship. Internationally, Nike has developed a three-tier production strategy (Nike, 1996; Rosier, 1997; Quinn and Hilmer, 1994). A full outsourcing strategy to third countries have turned Nike and Reebok into 'hollow' companies. For both companies, approximately one third of footwear is produced in China and another one third in Indonesia.

The only other company in the sector with a comparable strategy is Puma, which decided to move to full outsourcing in 1993. Although no production takes places in its home-country Germany, a share of Puma's products are manufactured in the home region, Europe. In addition, Puma is a relatively small player compared to Nike, Reebok and Adidas. In South East Asia, for example, factories producing Puma products also work for other companies (Brooks and Madden, 1995).¹³ The large companies in the sporting goods industry with an external code of conduct are the three with a full outsourcing strategy. For them, the code of conduct also functions as an additional set of control indicators on suppliers.

The other three companies, Adidas, Asics and Mizuno, combine an outsourcing strategy with substantial ownership of production facilities at home. They have direct control over at least part of their production. Of these three companies, Adidas has been most explicit about the child labour issue, by stating that it does not want to develop its own code, but

¹³ Interview with Puma product manager footwear, 24 July 1998.

that it however 'expects and insists that all of its contractors and subcontractors observe the laws and codes of their respective countries' and that 'child labour is prohibited by law without exception in every country where Adidas products are manufactured'.¹⁴

A second important aspect is clearly the home-country context. Nike and Reebok face a completely different situation than the European and Asian companies. The US government has been the only home government that has shown concern for labour practices in the sporting goods industry by initiating the AIP. Next to their participation in the AIP, Nike and Reebok also cooperate with home BSGs such as the Soccer Industry Council of America to develop programs for improving labour practices of their subcontractors. Finally and perhaps most importantly, Nike and Reebok have been singled out as industry leaders and become the targets of SIG campaigns, both internationally and in the US. Their aggressive and uniform (global) advertisement campaigns have made them easy targets for stakeholder action. As a result, a different dynamism of code-setting and implementation appeared in the US. By contrast, no specific governmental initiatives have been taken in Japan, Germany or at the European Union level directed specifically at labour practices in the sporting goods industry. Similarly, none of the four companies has programs or projects with home BSGs or SIGs in this field.

The dynamic interaction of different stakeholders in the case of the two American companies has not only influenced the development of their codes, but also the steps taken towards implementation and monitoring. Although the codes are relatively recent, Nike and Reebok were the first in the industry to adopt one, and have publicly available information about the way in which the codes are put into practice. For Puma and Mizuno, this is not the case.

Nike gives details about its approach to enforcement, the penalty system in case of non-compliance, inspections, independent monitoring programs and the development of a labour practices department. Reebok discloses information on audits, its quarterly monitoring project and the formation of task forces. In addition, several SIGs scrutinize both companies on implementation, monitoring and evaluation. Hence, while the codes issued by Nike and Reebok do not satisfactorily describe implementation, monitoring and evaluation, they have information available on the steps taken; a process in which SIGs continue to criticize and pressure them. Nike seems to have moved further than Reebok, because it has used several independent monitoring actors, whereas Reebok only did so on one occasion in the 1990s.

Another contrast with Reebok is Nike's development of working relationships with one BSG and several SIGs in host countries, particularly on the improvement of labour conditions (in the case of the former) and on monitoring and evaluation of its code of conduct. With regard to international initiatives, Nike participates with UNICEF in ILO's child labour program and works with Save the Children to eliminate child labour from the sporting goods industry, while Reebok supports Amnesty International's activities with the UN Declaration as the starting point. Although all six leading companies are member of the World Federation of the Sporting Goods Industry, only Nike cooperates in a program to eliminate child labour from the production of soccer balls in which WFSGI also participates.

¹⁴ <<http://www.adidas.de>>, website last accessed 27 May 1999.

A final, salient feature of the sporting goods industry is the role of FIFA. If a company aims at being an important player in this sector it has to take FIFA's regulations into account, including the Code of Labour Practice. This particularly applies to Nike, Reebok, Puma and Adidas.¹⁵ While the current status of FIFA's code is unclear, as even the organization's representative was not able to give information about its actual implementation, monitoring and evaluation, the initiative as such has had a substantial influence, particularly because of its strictness. Coupled with the high consumer orientation, the importance of outsourcing and the pressure on the leading US companies, it helps to understand the distinctive evolution of codes of conduct in the sporting goods industry.

2.5 CONCLUSIONS

This chapter has provided further support for the idea that individual companies tend to adopt codes that are less pronounced than in case codes are the result of interaction with other stakeholders. This finding underlines the importance of institutions and the establishment of common norms and rules, as put forward by institutional, stakeholder, regime and business ethics theorists. The present study puts this debate in an international dynamic and process-oriented perspective: some actors are more influential than others in setting up institutions and in putting forward business values and duties.

Another finding supports the notion that clubs (Business Support Groups) generally provide weaker incentives for credible codes than individual companies, due to the weak possibilities of excludability and appropriability of club goods. When firms are driven by stakeholders to express their commitment to 'doing the right things' in an international business context (Cf. Wartick and Wood, 1998), credible compliance procedures turn out to remain rather weak. This finding puts the theoretical links between profit objectives and societal responsibility as suggested in the Corporate Social Performance literature (Cf. Griffin and Mahon, 1997) in a broader perspective: although managers may adopt voluntary codes for societal reasons, they want to keep full control over implementation and monitoring.

The rigor and specificity of compliance procedures increases if influential international stakeholders (such as FIFA) introduce their own codes. International non-governmental stakeholders seem better able to provide the 'level playing field' in which the code does not become yet another PR instrument for rival firms. This is notable in view of the fact that many governments - for various reasons - currently abstain from a clear position as regards demanding codes from home-based companies. A consequence of this finding for future research could be to systematically consider the influence of international NGOs, rather than focusing on international or supranational governments. The transaction costs for setting up verifiable and uniform codes might be lowest for international NGOs.

This chapter tried to strike a balance between the 'business and society' literature that focuses on understanding the impact of stakeholders on the social responsibility and ethical behaviour of firms, the 'international political economy' literature that considers the operation (and function) of institutions on issues of regulation and self-regulation, and the more classic 'international business' literature on internationalisation strategies, cross-

¹⁵ Adidas' adherence to FIFA standards (and its lack of initiatives in other areas of codes) might be understood from the company's long-standing clientelist relationship with FIFA (see Yallop, 1999).

cultural management principles and the impact on performance. There are several ways in which the analysis can be further developed.

Firstly, the exclusive focus on codes should be broadened towards other expressions of corporate responsiveness. International Organizations can set standards in other ways than by means of codes.¹⁶ Likewise, companies that have not adopted codes of conduct might have good reasons for doing so.

Secondly, this chapter did not deal in detail with codes' effectiveness. Although the relative measure of compliance likelihood seems to be a step in the right direction towards assessing the impact of particular codes, more and better verifiable standards for performance, and measurement systems should be developed. The kind of longitudinal research as used here could be extended to longer periods.

Thirdly, the results of this study can be linked to available knowledge on the ways in which multinationals' internally communicate and implement codes, and resolve ethical dilemmas (including adjudication and mediation), especially in situations of different development levels and cultural traditions (Donaldson, 1989, 1996; Jackson, 2000). This also includes the role of ethical cultures and leadership, and instruments used to further cross-cultural ethical competencies and learning (Buller and McEvoy, 1999; Jackson, 1997). Moreover, this chapter can serve to investigate the extent to which coding by both company-internal and external actors from different cultures reflects the emergence of universal norms and values.

Fourthly, this study underlined the likely impact of companies' internationalisation strategies and the nature of the industry on the likelihood to adopt codes. Some of the observations can still be classified as preliminary. More detailed further inquiries might include, for example, a systematic quest for the position of different actors in developing countries (which are often less pronounced on codes of conduct, engaged as they are in attracting Foreign Direct Investment).

To obtain insight into these four areas, it is worthwhile to develop other systematic case studies with the same characteristics: longitudinal, internationally comparative, multi-level and containing all relevant actors. In this way, it can also be investigated whether the current momentum of business ethics is likely to become more engrained than in the 1970s, when the interest in codes of conduct, social and environmental reporting and measurement of impacts first started.

¹⁶ As rightfully remarked by one of the reviewers, the ILO code contains no proscriptions on child labor, but this same organization is also well-known for its two existing sets of standards prohibiting child labor, which are, however, not contained in this formal code (see footnote 6).

PART III: ISSUES

CHILD LABOUR AND MULTINATIONAL CONDUCT¹⁷

Increasing attention to the issue of child labour has been reflected in codes of conduct that emerged in the past decade in particular. This chapter examines the way in which multinationals, business associations, governmental and non-governmental organizations deal with child labour in their codes. With the standardized framework of Part I, it analyses 55 codes drawn up by these different actors to influence firms' external, societal behaviour. The exploratory study helps to identify the main issues related to child labour and the use of voluntary instruments such as codes of conduct. Apart from a specific indication of the topics covered by the code, especially minimum-age requirements, this also includes monitoring systems and monitoring parties. Most important to company codes are the sanctions imposed on business partners in case of non-compliance. Severe measures may be counterproductive as they do not change the underlying causes of child labour and can worsen the situation of the child workers by driving them to more hazardous work in the informal sector. This underlines the importance of a broad rather than a restrictive approach to child labour in codes of conduct. This chapter discusses the implications of this study, offering suggestions for future research.

3.1 INTRODUCTION

Since the early 20th century, the issue of child labour has been the subject of widespread regulatory and societal attention. After several industrialized countries had adopted laws that limited the minimum working age of children and their working conditions, international organizations were requested to advance similar measures worldwide. The main vehicle of these international attempts has been the International Labour

¹⁷ Codes of conduct analysed in this chapter

International governmental organizations (n=4): ILO (Minimum Age Convention No. 138, 1973), ILO (Convention 182 on Elimination of Worst Forms of Child Labour, 1999), OECD (OECD Guidelines for Multinational Enterprises, revised version, 2000), UN (United Nations Convention on the Rights of the Child, 1989)

Non-governmental organizations (n=5): Catholic Institute for International Relations, Clean Clothes Campaign, Christian Aid, Danish Confederation of Labour Unions, Fédération Internationale de Football Association
Business associations (n=6): American Apparel Manufacturers Association, Athletic Footwear Association, Association Merchandising Cooperation, British Toy and Hobby Association, International Council of Toy Industries, Toy Industries of Europe

Firms (n=40): Body Shop, Burton Group, C&A, Converse, Dayton Hudson, Dress Barn, Elf Aquitaine, Federated Department, Fruit of the Loom, Gap, Hennes & Mauritz, JCPenney, Jones Apparel Group, Kellwood, Kmart, Lands' End, Levi Strauss, Limited, Liz Claiborne, Mercantile Stores, Merck, Nestlé, Nike, Northern Telecom, Oxford Industries, Phillips-Van Heusen, Pricecostco, Puma, Reebok, Salant Corporation, Sara Lee, Stage Stores, Talbots, Tultex Corporation, Venture Stores, VF Corporation, Wal-Mart Stores, Walt Disney, Warnaco, WE

Organization, created in 1919 with the abolishment of child labour as one of its fundamental objectives. This was reflected in the adoption of the Minimum Age Convention (No. 5) in the same year.

In the course of the century, several other international initiatives have been taken to protect children, particularly the 1924 Declaration of Geneva, the creation of UNICEF (1946), ILO's 1973 minimum age convention (No. 138), the 1989 UN Declaration on the Rights of the Child and, most recently, the 1999 ILO Convention to combat the worst forms of child labour (No. 182). These different initiatives aimed to regulate children's working conditions in the traditional sense: governments, both nationally and internationally, that imposed laws or tried to stimulate different company behaviour.

In the 1970s, the role of multinational enterprises, and the negative social and environmental implications of large-scale foreign investment, became controversial for the first time. This debate, that re-emerged in the 1990s, has centred around the relocation of production to developing countries with lower social and environmental standards, where an appropriate regulatory framework to protect (child) workers and the environment was either missing or not implemented, and multinationals' cooperation with or implicit support for oppressive regimes (Kolk et al., 1999). It gave rise to academic reflection on multinationals' ethical behaviour, including their fundamental rights and duties, and universal moral norms (e.g. Bowie and Vaaler, 1999; Buller et al., 1997; Donaldson, 1997).

In response to these concerns, attempts were made to regulate multinational behaviour, especially through codes of conduct. In the 1970s, this involved guidelines drawn up by international organizations. In spite of pressure by a number of governments in developed and developing countries, and non-governmental organizations (NGOs), it proved impossible to make these codes mandatory. The 1990s witnessed new efforts to formulate global standards for multinational conduct. Besides international organizations, governments and NGOs, companies and their business associations also started to draw up codes in which they voluntarily committed themselves to a particular set of norms and values.

In view of large societal attention for child labour, an increasing number of codes has addressed this issue. This chapter analyses the way in which multinationals and stakeholders deal with child labour in their codes of conduct. It gives an overview of 55 codes drawn up by multinationals, business associations, international organizations and NGOs - those stakeholders that have adopted child labour codes. For this purpose, codes of conduct are defined as "guidelines, recommendations and rules issued by entities within society (adopting body or actor) with the intent to affect the behaviour of (international) business entities (target) within society in order to enhance corporate responsibility" (Kolk et al., 1999, p. 151). In this definition, codes therefore always aim at influencing company conduct, focusing on their external, societal, usually international, behaviour. It excludes more internally oriented (ethical) codes, designed, for example, to regulate employees' ethical conduct when confronted with dilemmas such as conflict of interests, gifts, theft, insider trading and bribery. In view of its focus on the business-society interface, the chapter will neither enter into important debates on the (macro)economic and ethical dimensions of child labour (Basu, 1999a; Hartman et al., 1999; Hindman and Smith, 1999).

The first section of this chapter gives some background information on the issue of child labour, particularly the status of international standards, and the characteristics of companies that employ underage workers. Subsequently, the results of the code analysis

will be given, comparing different actors' positions, based on specificity and compliance mechanisms. It also deals with the implications of sanctions, including the possible drawbacks of strict compliance. The final section discusses the role of codes of conduct, and offers suggestions for future research in this field.

3.2 CHILD LABOUR: DEFINITION AND CHARACTERISTICS

The international standards, or codes, drawn up by organizations such as the ILO, reveal the existence of a continuum that ranges from acceptable to unacceptable forms of child labour. This has also been labelled as respectively 'child work' and 'child labour' (George, 1990, pp. 22-23). At one end of the continuum, tolerable work can be found, which is, as defined in ILO convention No. 138 (1973), "light work which is not likely to be harmful to [children's] health or development, and which is not such as to prejudice their attendance at school". The convention stipulates a minimum age of 13 years for this type of employment; in exceptional cases, this may be lowered to 12 years. Given the social and economic situation, such work can be a reasonable means of earning a living for the children and their families; sometimes this is even regarded as potentially beneficial for children's development (UNICEF, 1997).

At the other end of the spectrum, intolerable forms of abusive, exploitative and dangerous working conditions can be found. ILO Convention No. 182 (1999), for example, characterizes worst forms of child labour as "all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict". This description also covers the use of children for prostitution, illicit activities, and other forms of work that "is likely to harm the health, safety or morals of children". According to this convention (and to others, such as the UN convention on the rights of the child), children are defined as all persons younger than 18 years.

Although perceptions on child labour also depend on cultural traditions and levels of economic development and social conditions, there is a large consensus on the unacceptability of these worst forms of child labour. This is underlined by the relatively rapid acceptance of C182, which, after one year, has been ratified by 56 countries, with ratification processes under way in many others (ILOLEX data, see Kolk et al, 2001). In between the two extremes, however, there is a large grey area in which much child labour falls. According to the ILO (1998), a large number of the estimated 250 million child workers between 5 and 14 years is confronted with some kind of hazards; in some countries, this even amounts to two-thirds (69%). To which countries this latter percentage refer, is not specified by the ILO.

The problem with the implementation of international norms, however, is that the majority of child labour takes place in the informal sector, in agriculture, services and small-scale manufacturing. These are usually not adequately covered by national legislation. While attention focuses on child labour in export industries, they employ only a very small percentage, probably less than 5%, of the child work force (UNICEF, 1997, p. 21). This means that unilateral international sanctions to ban child labour seem to have a minimal impact, and might well be counterproductive as it drives children to the informal sector where control over labour conditions is lacking. Especially for small, local companies, employing children is a necessary component of a cost-reduction strategy and vital to

increase the very low profit margins. While the cost savings achieved in this way are a relatively small percentage of the final consumer price, the use of child labour can double the local entrepreneur's own small income, as an ILO study in the Indian carpet and bangles industries showed (Fyfe and Jankanish, 1997).

3.3 CHILD LABOUR IN CODES OF CONDUCT

Given these characteristics of child labour, how do different stakeholders and companies themselves deal with the issue in their codes of conduct? To assess this, the next section examines the contents of 55 codes adopted by multinational firms (MNEs), business associations (business support groups, BSGs), international organizations (IOs) and non-governmental organizations (NGOs). These codes explicitly address the issue of child labour.

Forty company codes were drawn from a set of approximately 100 codes of the largest MNEs or of companies that have been pioneers in the field of corporate social responsibility (Cf. Kolk et al., 1999; see the Appendix). This selection process has revealed that only a relatively small number (13%) of the largest (Fortune 500) firms has a company code that includes provisions on child labour. The added selection of slightly smaller firms, but pioneers in the adoption of codes, shows a substantially higher share of child labour provisions. The sectors in which these leading firms operate are the ones with the highest likelihood of child labour: retail and apparel. Of the 24 important international codes of business associations, only 6 (25%) include child labour provisions.

Most codes of international organizations deal with child labour issues. The IO codes in this chapter include the main standards and conventions with regard to child labour (ILO conventions Nos. 138 and 182, and the UN Convention on the Rights of the Child) and to multinational conduct (the recently revised OECD guidelines for multinational enterprises). Approximately 40% of the most well-known international NGO codes include provisions on child labour. The issue of child labour is, therefore, least addressed by companies and business associations, and most by NGOs and international organizations. Nevertheless, the discussion on child labour seems to focus primarily on the ability of companies to effectively address the issue through a code of conduct.

All codes were examined with the standardized framework of analysis used in Part I and II, but adapted to suit the peculiarities of child labour (see table 3.1). It focuses on the specificity of the child labour provisions included in the codes, particularly the minimum-age requirement, and the compliance mechanisms, including monitoring and the type of sanctions in case of violations. Non-compliance leads to dilemmas with regard to the fate of the children: will they be dismissed, leading to the impression of 'clean hands', but without addressing the problem as such, or are alternative measures offered to help the child workers? Some of the main features of the code analysis will be briefly discussed below, divided into three sections: specificity, monitoring, and types and implications of sanctions.

Table 3.1: A model to analyse and compare codes of conduct on child labour issues

| | Criteria | Short elaboration | Classification |
|--------------------|--------------------------------------|---|---|
| SPECIFICITY | 1.1 Minimum age to employment | Does the code include a minimum age to employment? If so, what age? | yes (age); no |
| | 1.2. Applicability | Is this a universal minimum age or are country-specific exceptions indicated? | n.a.; universal; country-specific |
| | 1.3. Organization targeted | To whom is the code addressed? General, governments; internal operations of specific firms; business partners (suppliers, subcontractors, vendors, manufacturers) | actor category (exact wording) |
| | 1.4. Reference | Is reference made to international standards (ILO, UN), either implicit or explicit, or to home-country or host-country laws? | none; home; host; international (implicit/explicit) |
| | 1.5. Nature of code | Are alternative measures included in the code (such as education for children)? Or does the code only prohibit child labour? | broad; strict |
| COMPLIANCE | 2.1 Monitoring systems and processes | good insight into system and process (clear); reference to some parts, but criteria or time frames are lacking (clear to vague); only general reference to monitoring without details (vague) | clear; clear to vague; vague; none |
| | 2.2 Position of monitoring actor | firms themselves (1st party); BSGs (2nd party); external professionals paid by firms (3rd party); combinations of different actors (4th party); NGOs (5th party); legal authorities (6th party) | ranging from: 1st to 6th party |
| | 2.3 Sanctions | measures have no large implications, e.g. warnings and exclusion of membership (mild); threat to business activities (severe) | none; mild; severe |
| | 2.4 Sanctions to third parties | measures such as fines, or demands for corrective action (mild); severance of relationship, cancellation of contract (severe) | n.a.; none; mild; severe |

Source: Adapted from Kolk et al., (1999), p. 155.

3.3.1 SPECIFICITY

As examined in the previous section on the definition of child labour, one of the main topics concerning the specificity of codes has been the minimum-age requirement. Especially ILO Convention No. 138 has been important in the discussion on international standards. In view of the exceptions that it makes to the universally applicable minimum age of 15 years, this ILO code is not included in table 3.2. The table gives an overview of the minimum ages stipulated in the other three IO codes, the five NGO codes, the six BSG (business support groups) codes, and the 40 MNE codes.

Almost half of the codes does not mention a minimum age. If they do, however, 14 is most frequently indicated, which applies particularly to business codes (both MNE and BSGs). This age is incompatible with Convention 138. A few company codes explicitly refer to this ILO code, which means that 15 years is mentioned, with 14 as developing-country exception. Only one NGO and one MNE code stipulate 18 as minimum age; the company concerned, Nike, however, includes two minimum ages: 18 for the production of footwear, and 16 for apparel, accessories and equipment.

Table 3.2: Minimum ages to employment mentioned in codes of conduct

| | No age | 14 | 15/14 | 15 | 16 | 18 |
|--|--------|----|-------|----|----|----------------|
| International Organizations (n=3) ¹ | 100 | | | | | |
| NGOs (n=5) | 20 | 20 | | 20 | 20 | 20 |
| Business Support Groups (n=6) | 67 | 33 | | | | |
| MNEs (n=40) | 43 | 28 | 8 | 15 | 5 | 3 ² |

¹ ILO convention 138 is not included as it defines exceptions to the minimum age of 15.

² This code (Nike) gives two minimum ages: 18 for the production of footwear, and 16 for the production of apparel, accessories and equipment. As this is the only MNE code that mentions 18 years, it is included in the 18 category only.

Of the codes that mention a minimum age to employment, only a small minority has universal applicability (table 3.3). Usually, codes are country-specific, which means that they formulate a minimum age, but that a higher age will prevail if host-country laws stipulate this higher age for employment or for finalizing educational requirements. The Reebok code of conduct can be cited as example:

“The company will not work with business partners that use child labour. The term ‘child’ generally refers to a person who is less than 14 years of age, or younger than the age for completing compulsory education if that age is higher than 14. In countries where the law defines ‘child’ to include individuals who are older than 14, the company will apply that definition.”

Table 3.3: Applicability of minimum ages stipulated in codes of conduct

| | Universal | Country-specific | Not defined |
|-----------------------------------|-----------|------------------|-------------|
| International Organizations (n=4) | | 25 | 75 |
| NGOs (n=5) | 20 | 80 | |
| Business Support Groups (n=6) | | 33 | 67 |
| MNEs (n=40) | 8 | 70 | 23 |

More generally, if business codes refer to standards, this usually involves the host country (table 3.4). Some MNEs explicitly refer to international standards, as already mentioned, or do this implicitly by including Convention 138’s minimum age of 15 in their codes of conduct. The majority of NGO codes explicitly refers to international standards, while all IO codes mention other international conventions.

Table 3.4: Reference to home-country, host-country or international standards in codes of conduct (in % of code type)

| | No standards | Home-country standards | Host-Country standards | International standards (implicit) | International standards (explicit) |
|-----------------------------------|--------------|------------------------|------------------------|------------------------------------|------------------------------------|
| International Organizations (n=4) | | | | | 100 |
| NGOs (n=5) | 20 | | 20 | | 60 |
| Business Support Groups (n=6) | 67 | | 33 | | |
| MNEs (n=40) | 18 | | 55 | 18 | 10 |

The final aspect of specificity concerns the organizations targeted by the code. By the nature of the definition used in this chapter, all stakeholder codes focus on business, either generally (all employers), or specifically (one sector). Most interesting in this regard are the organizations at which MNEs aim. Codes use a variety of terms, ranging from business partners, suppliers, vendors, and subcontractors to manufacturers. The majority (63%), however, does not define the concepts, failing to explain the intended scope of their requirements. One quarter of the MNEs clearly define the business partners at which their codes are targeted. An example is Stage Stores, which states that:

“We have defined business partners as vendors, manufacturers, contractors, subcontractors and other suppliers who provide labour and/or material including fabric, sundries, chemicals and trim utilized in the manufacture and finishing of products that are ordered by or through us.”

The remaining 12% of the MNE codes fall in between by defining the targeted organization, but without providing insight into the extent to which it is to be implemented in the subcontracting chain.

3.3.2 MONITORING

A majority of the codes indicates how the provisions of codes are monitored, and by whom. 80% of the NGO codes clearly specifies the monitoring process and system, including the criteria for assessment; this also applies to 28% of the MNE codes. Most BSG codes, and half of the IO codes envisage a monitoring process but do not mention criteria or time-frames. The remaining just vaguely refers to monitoring without giving any further details.

Table 3.5: Clarity of monitoring systems and processes in codes of conduct (in % of code type)

| | None | Vague | Vague/clear ¹ | Clear |
|-----------------------------------|------|-------|--------------------------|-------|
| International Organizations (n=4) | | 50 | 50 | |
| NGOs (n=5) | 20 | | | 80 |
| Business Support Groups (n=6) | 33 | | 67 | |
| MNEs (n=40) | 40 | 15 | 18 | 28 |

¹ Vague/clear means that monitoring is envisaged, but that criteria for assessment or time-frames are lacking.

With regard to the monitoring party, most MNEs prefer to do this themselves, whereas international organizations rely on legal authorities. Third-party monitoring, by external professionals, is mentioned in 10% of the MNE codes (i.e. 17% of the codes with monitoring provisions). Most NGOs prefer monitoring by combinations of actors, such as NGOs and BSGs (4th party); some firms have included this in their codes.

Table 3.6: Monitoring actors mentioned in codes of conduct¹ (in % of code type)

| | None | 1 st party | 2 nd party | 3 rd party | 4 th party | 6 th party |
|-----------------------------------|------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| International Organizations (n=4) | | | | | | 100 |
| NGOs (n=5) | 20 | | 20 | | 60 | |
| Business Support Groups (n=6) | 83 | | 17 | | | |
| MNEs (n=40) | 40 | 43 | 3 | 10 | 5 | |

¹ 1st party: firms themselves; 2nd party: BSGs; 3rd party: external professionals paid by firms; 4th party: combinations of different actors; 5th party: NGOs; 6th party: legal authorities.

3.3.3 SANCTIONS AND IMPLICATIONS

A vital issue concerns the sanctions that firms impose on their business partners in case of non-compliance with the provisions included in the codes. Almost half of the MNE codes does not include sanctions, while 45% takes strong measures, such as the termination of business relationships or the cancellation of orders. More than 80% of the BSG codes also announces to take such severe sanctions.

This raises the question, however, what will happen to the children in such cases. If the MNE terminates the relationship or if the children are fired, the problem of child labour does not disappear as economic conditions have not changed. In fact, the situation can even deteriorate because the children are forced to find work elsewhere, usually in the informal sector where any form of control on labour conditions is lacking. Studies in Bangladesh, for example, showed that the threat of US sanctions, and the consequent expectation of future

restrictive laws on child labour, led to the dismissal of 40,000 children in the garment industry; between 5,000 and 7,000 girls moved to prostitution (Basu, 1999b, p. 86; Fyfe and Jankanish, 1997, p. 87).

Therefore, 'responsible' business conduct would mean that firms take measures that help improve the situation through compensatory programs for the children, such as access to education, food and health care, and alternative sources of income for the children's families (e.g. UNICEF, 1997; Save the Children, 2000). Of the 40 MNE codes, only three take such a broad approach. Hennes & Mauritz is an interesting example:

"H & M does not accept child labour. We are concerned about the situation of children in many parts of the world. We acknowledge the fact that child labour does exist and can't be eradicated with rules or inspections, as long as the children's social situation is not improved. We want to actively work with factories and with NGOs in third world countries, to try to improve the situation for the children affected by our ban on child labour.

If a child is found working in any of the factories producing our garments, we will request the factory to make sure that the measures taken are in the child's best interest. We will, in co-operation with the factory, seek to find a satisfactory solution, taking into consideration the child's age, social situation, education etc. We will not ask a factory to dismiss a child without a discussion about the child's future. Any measures taken should always aim to improve, not worsen, each individual child's situation. Any costs for education, etc. have to be paid by the factory."

Such an approach, however, also raises questions about the boundaries of corporate responsibility and what should be provided by governments, in both developed and developing countries.

3.4 CONCLUSIONS AND RESEARCH IMPLICATIONS

This exploratory study of 55 international business and stakeholder codes has provided insight into the way in which child labour issues are addressed in these formal documents aimed at regulating corporate conduct. Using a standardized framework of analysis, specificity and compliance were examined, paying particular attention to minimum-age requirements, monitoring and sanctions. Codes drawn up by NGOs turned out to be most specific, and those developed by business associations the least. This confirms other research on codes of conduct and the role of business associations in providing so-called 'club goods' (Prakash, 2000; Part II).

Companies are supposed to be leading in addressing the issue of child labour. This chapter has shown that this claim needs considerable modification. Not only is the number of large multinational companies that have child labour provisions in its codes relatively limited (less than 20%), the codes with such provisions score mixed results with regard to code specificity and compliance likelihood. Many company codes suggest universal applicability (of a minimum age, for example), are country-specific and prefer vague or internal monitoring procedures, whereas others include clear monitoring mechanisms and sanctions for their business partners in case of non-compliance.

The imposition of severe sanctions, however, proves to be a complicated issue. At first sight, one is inclined to applaud strict measures to ban child labour as this seems the logical consequence of a business policy, usually developed after strong societal pressure. Nevertheless, on further consideration, such 'clean hands' may well be counterproductive because it does not tackle the child labour problem and its underlying causes. Moreover, it can worsen the situation for the children who are forced to find work elsewhere, often in the informal sector. In this regard, it is important to note that only a small fraction of the estimated 250 million child workers is employed in export-related industries. More than 95% works in agriculture, small businesses or provides services outside the formal economy.

In spite of this caveat, however, the position taken by multinationals can be important. They set a standard for corporate conduct and influence other firms and governments, thus perhaps helping to further international attempts to address child labour. This is even more the case if they take responsibility for improving children's working conditions, education and health, or assist in finding alternative ways of income-generation for the families. Such a broad approach is only taken by three multinationals out of the set of forty analysed in this chapter. Because the forty codes only represent a small portion of the multinationals with a company code (let alone of the whole set of multinationals without one), it can be assessed that the broad approach to the child labour issue is currently embraced by less than 5% percent of companies. Nevertheless, the potential role of large international companies remains interesting, but cannot be considered in isolation.

In this regard, it must be noted that the specificity of codes drawn up by other societal stakeholders remains higher, whereas the action of international organizations such as FIFA can better trigger broader-defined codes than companies themselves (Cf. Van Tulder and Kolk, 2001). At the same time, however, governmental ratifications of international agreements such as the ILO child labour convention are still surrounded by many caveats. This implies that the issue of child labour cannot be resolved by business-government interaction only, but requires the involvement of other national and international stakeholders as well. Research efforts in this direction might focus on the importance of firms' country of origin, particularly the regulatory and societal context, including the role of stakeholders (Langlois and Schlegelmilch, 1990; Van Tulder and Kolk, 2001). Available knowledge on ethics management in different cultures can be helpful in this regard (Buller et al., 1997; Jackson, 1997; Weaver, 2001). Apart from the analysis of larger sets of multinationals with different nationalities, sector-specific case studies of codes of conduct can be useful to understand the dynamics.

This chapter has provided insight into the contents and compliance likelihood of codes of conduct that address the very important moral issue of child labour. The actual effectiveness of codes of conduct in tackling this child labour problem is difficult to assess, however, because of its multi-faceted nature. Some of the companies that we approached for this study suggested that it might be more effective not to have a code of conduct (Cf. Kolk et al, 2001). Firstly, they argue that a strict code (without the broader approach as distinguished in this chapter) might even aggravate the problem. Secondly, a broader code might damage a company's reputation as a result of negative media coverage in its country of origin (this depends on the country in question, see Van Tulder and Kolk, 2001). Thirdly, the company view on child labour, as included in the code, can differ from that of the host government, possibly leading to barriers to entry for companies that might otherwise have had a positive effect on the emancipation of children.

Additional research is required to obtain insight into business and stakeholder ideas about the effectiveness of codes, and what roles firms and governments ought to play in attempts to address child labour. This could also include a consideration of instruments and mechanisms other than codes of conduct, and an analysis of those companies that claim to be concerned about child labour but do not have codes of conduct (or codes with only modest monitoring provisions or that take a strict approach). Moreover, the communication and implementation process of codes of conduct, and the related organizational aspects, such as company structure, culture and leadership, that influence staff behaviour deserve further attention. This could build on insights from research on ethical codes and the organizational and individual factors that affect ethical conduct (e.g. Cleek and Leonard, 1998; Somers, 2001). Future studies on this topic might also focus on those parts of the supply chain that are usually not covered by codes of conduct, but that employ the overwhelming majority of the children.

This chapter has identified a 'broader' and a 'stricter' approach to child labour. Hence, the prevention of child labour seems to be much less of a universal 'hypernorm' than is sometimes suggested. This offers ample opportunities for more research into the actual, 'realistic' and 'pragmatic' strategies that are adopted for the purpose, and their effectiveness in addressing child labour.

PART IV: EFFECTIVENESS

THE EFFECTIVENESS OF CHILD LABOUR CODES

The effectiveness of self-regulation to promote corporate social responsibility, with codes of conduct as most common means, continues to be the subject of widespread interest. This chapter explores the effectiveness of corporate codes of conduct, focusing on the issue of child labour. This issue is all the more pronounced, because a strict approach, involving firing child workers or terminating relationships with suppliers that employ them, does not change underlying causes. Effectiveness is explored by a close examination of the nature of child labour codes of six pioneering international garment companies, and by a survey among a focus group of opinion leaders in companies and stakeholders, who were asked for their views on the different dilemmas surrounding codes and child labour. Overall, our research shows that corporate codes are considered to be important, though not the only instruments for addressing child labour. Possible negative side-effects and limitations of codes are not seen as crucial factors that harm their effectiveness. Codes must be specific, strictly implemented and monitored, and combined with alternative arrangements for under-age child workers. The importance of a supply-chain approach and attention for the host-country context is recognized. But this also raises many difficult dilemmas concerning the boundaries of corporate social responsibility, which the chapter examines in more detail.

4.1 INTRODUCTION

To promote corporate social responsibility, the importance of self-regulation, and codes of conduct as main instruments of voluntary rule-setting, has long been embraced (see, e.g., Arrow, 1973). In the mid-1980s, Maitland (1985, p. 132) pointed at the “lasting appeal” of the “idea that we would be better off if we could rely on the promptings of a corporate ‘conscience’ to regulate corporate behaviour instead of the heavy hand of government regulation”. But he also emphasized that the attempts to implement self-regulation had shown rather limited results due to free-rider and particularly assurance problems (Maitland, 1985; see also Olson, 1965). As possible solution, it was suggested to follow economy-wide approaches, adopting mixed systems of government regulation and self-regulation (Garvin, 1983; Gupta and Lad, 1983; Maitland, 1985).

Almost twenty years later, with renewed widespread interest in self-regulation and corporate social responsibility, questions about effectiveness continue to be raised. Companies currently face a quite different situation, however. Through stakeholder pressure and consumer campaigns, they are directly targeted and urged to show their commitment and the actions taken to prevent human rights violations and environmental pollution. Corporate codes of conduct are the most common means to express and implement social responsibility. But how effective are they in addressing the problem? The

issue of child labour provides one of the clearest litmus tests for self-regulation. A strict approach, such as firing child workers or terminating relationships with companies that employ them, does not necessarily change underlying causes. Previous research has underlined that severe sanctions can even worsen the children's situation by driving them to more hazardous work in the informal sector (Basu, 1999b; Part III).

This chapter explores the effectiveness of corporate codes of conduct, focusing on the child labour issue. Over the years, different organizations have paid attention to the issue, starting with international organizations, followed later by non-governmental organizations (NGOs), business associations and companies. As international child labour conventions have not been universally ratified, attention has shifted to what multinational companies (intend to) do to address the problem. Figure 4.1 outlines the different positions that can be taken in this debate. It ranges from support for the positive impact of corporate codes of conduct (position 1), to emphasis on the unintended negative side-effects of codes, such as the impact on children in case of strict sanctions (position 2), to an effective corporate approach by other means than codes (position 3), and finally, a situation in which child labour is seen as a public, not a private, responsibility (position 4). This basic figure and ten propositions exemplifying major managerial dilemmas surrounding corporate codes and child labour (see figure 4.2) have guided the research on which this chapter reports. Effectiveness is explored by a close examination of the nature of the child labour codes that companies have drawn up, and by a survey among a focus group of companies and stakeholders, who were asked for their views on the different dilemmas.

Figure 4.1: Four positions on codes and child labour

| | | Effective in dealing with child labour | |
|------------------------------------|-----|--|------------|
| | | YES | NO |
| Having a corporate code of conduct | YES | Position 1 | Position 2 |
| | NO | Position 3 | Position 4 |

Figure 4.2: Ten Propositions

| | | Effective in dealing with child labour | |
|---|------------|---|---|
| | | YES | NO |
| Having a corporate code of conduct | YES | <p>The effectiveness of corporate codes of conduct in dealing with child labour is studied by analysing (1) internal characteristics of codes; (2) compliance likelihood of codes. Based upon this research the following hypotheses can be deduced and connected to the other quadrants of the framework:</p> <ol style="list-style-type: none"> 1. If corporate codes of conduct are strict in their wording and strictly implemented as well, then they might have several unintended, negative side effects; 2. If corporate codes of conduct are strict in nature, they should be accompanied by additional efforts to effectively deal with the child labour problem. | <p>Corporate codes of conduct will not be effective in dealing with child labour, if:</p> <ol style="list-style-type: none"> 3. codes are not combined with compensatory arrangements for children dismissed from work; 4. codes are not monitored independently to enhance credibility of true and correct compliance with the code; 5. suppliers in developing countries are obliged to follow higher labour standards and therefore extend the supply chain to decrease the effectiveness of monitoring. This could mean a shift of the child labour problem from the formal to the informal sector; 6. only export-sector industries, which employ approximately five percent of child workers, implement codes of conduct; 7. deviating social norms and values concerning child labour will not lead to a true incorporation of codes of conduct in developing countries; 8. codes substitute for government regulation, which is undesirable because public policy is indispensable in dealing with the problem of child labour. |
| | NO | <ol style="list-style-type: none"> 9. If companies are not willing to accept the risks involved in adhering to codes of conduct, they should adopt alternative, more informal measures to effectively deal with child labour. Possibilities for alternative strategies to deal with child labour encompass: <ul style="list-style-type: none"> to engage, either alone and/or with other firms in community involvement programmes; collaborate with NGOs specialized in improving the situation for working children; collaborate with public institutions (such as UNICEF) to improve the situation for children that need help. | <ol style="list-style-type: none"> 10. Internationally operating companies without a code of conduct could hold the opinion that they are not responsible for the issue of child labour, because: <ul style="list-style-type: none"> establishing rules concerning child labour is a public responsibility; companies are not 'rule-making' entities in society, instead, public institutions are responsible for enacting labour legislation. Companies are only obliged to comply with countries' national legislation and that should be considered sufficient. |

This chapter shows how six pioneering companies in the garment industry have addressed child labour in their codes of conduct. We chose the garment industry because of the frequent use of child workers and the related public attention to the sector. Stakeholder pressure and interaction prove to be important factors for the development and implementation of relatively strict corporate codes. Of the one hundred largest Fortune Global 500 companies, only 13 have a (modest) child labour provision in their corporate

codes, whereas this is common for almost all major garment companies. As consumer action and corporate approaches in the US and Europe frequently differ, as particularly the Nike case has shown (Part II),¹⁸ large international companies from both continents were selected (respectively Gap, Levi Strauss, Nike; and C&A, Hennes & Mauritz, WE). Interestingly, two European companies, H&M and WE, have adopted a so-called ‘broad’ approach to child labour. This means that their codes include measures for alternative arrangements for children found to be working, and that companies thus explicitly assume a certain responsibility for the situation (Part III).

In addition to the analysis of the codes themselves, we asked opinion leaders in companies, and governmental and non-governmental organizations about their opinions on the different positions with regard to effectiveness (figure 4.1 and figure 4.2). This chapter also reports the views of this focus group of fifteen opinion leaders concerning the different aspects of child labour codes. Consensus existed on the value of codes of conduct, added with supplementary instruments where necessary. Respondent opinions differed, however, with regard to the strictness and types of monitoring mechanisms, and on the discussion of the limits to company responsibility, concerning suppliers and supply chains, and governments. Overall, they emphasized the importance of self-regulation for promoting corporate social responsibility, and the desirability of a broad approach that stretches beyond the narrow confines of the company itself.

Before turning to this data, however, the next section will briefly discuss the concept of child labour, and the implications of this international debate for companies that address the issue in their corporate codes of conduct.

4.2 ASPECTS OF CHILD LABOUR

4.2.1 THE INTERNATIONAL DEBATE

The international debate on what constitutes child labour and how working conditions can be improved has particularly been waged in the framework of the International Labour Organization (ILO). The 1973 Minimum Age Convention and the 1999 Convention to Combat the Worst Forms of Child Labour cover the main topics that have been discussed over the years. In this regard, a continuum exists, ranging from acceptable to unacceptable forms of child labour (sometimes labelled as ‘child work’ versus ‘child labour’). Tolerable might be “light work which is not likely to be harmful to [children’s] health or development, and which is not such as to prejudice their attendance at school”, carried out by children of at least 13 years of age.¹⁹ Unacceptable are all kinds of abusive, exploitative and dangerous work, or as the 1999 ILO-Convention stipulates, “forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict”. This standard, which also includes the use of children for prostitution, and activities that are illicit or harmful to health, safety or morals, regards everybody younger than 18 years as child.

¹⁸ For more specific information on Nike, see also Connor, 2001, Wokutch, 2001; and <<http://www.nikebiz.com>>.

¹⁹ Quotation from ILO Minimum Age Convention No. 138 (1973). For a more detailed analysis of definition and characteristics of child labour, see Anker, 2000; Kolk and Van Tulder, forthcoming.

Although perceptions on child labour also depend on cultural traditions, levels of economic development, and social conditions, a wide consensus exists on the unacceptability of the worst forms of child labour. This is shown by worldwide support for the 1989 United Nations Convention on the Rights of the Child,²⁰ and the rapid ratification of the 1999 ILO-Convention on the Worst Forms of Child Labour. In two years' time, 100 countries have ratified ILO-Convention 182, and the organization hopes that all 175 members of the United Nations will have signed by 2003.²¹ Countries that have not ratified include China, India, Nigeria and Pakistan. By contrast, ratification of the 1973 ILO Minimum Age Convention 138 has proceeded more slowly, although support has grown rapidly especially since the mid-1990s. Whereas by 1996, the number of ratifications amounted to 46, it currently stands at 112, with all of these countries specifying minimum ages of at least 14, and the large majority 15 or 16 years. Countries such as India, Nigeria, Pakistan, Viet Nam, and also the United States have not ratified, while China has. Among the countries that have ratified both conventions, Brazil and Indonesia can be found.

Besides differences in governmental support that complicate the prevention of child labour, implementation of such standards proves also difficult. This is especially due to the fact that the majority of child labour takes place in the informal sector, which is usually not adequately covered by national legislation. Most children work in agriculture, services and small-scale manufacturing. While attention focuses on child labour in export industries, they employ only a very small percentage, probably less than 5%, of the child work force (UNICEF, 1997, p. 21). This points at the limits of government intervention and of international sanctions. At the same time, it underlines the role that international companies could potentially play, directly in their own operations in developing countries, and more indirectly by the activities that they outsource to local suppliers. It is here that corporate codes of conduct become important instruments.

4.2.2 IMPLICATIONS FOR COMPANIES

The international debate has several implications for companies and their codes of conduct. In their worldwide activities, companies are confronted with different perceptions of child labour, the position of children in society and the standards that should be adopted. Frequently, diverging views can be noted between the host countries in which they operate and their country of origin. In their home countries, companies face a quite different set of expectations about their role in society, and possibly stakeholder pressure that deviates from what host governments find reasonable. This can lead to difficult dilemmas, for example, with consumers at home urging a complete ban on child labour, and accompanying strict monitoring of compliance, while company plants are located in countries where the host government support and the regulatory infrastructure is lacking, and where child labour is (still) as common as it was in many Western countries a century ago.²²

²⁰ This UN Convention is more general than ILO-Convention 182. It stipulates the need to protect children from economic exploitation, and hazardous and harmful work, and requires states to provide minimum ages to employment. Except for the US and Somalia, this Convention has universal ratification. The US has difficulty in implementing it in states' legislation; in Somalia, there is no internationally recognized government.

²¹ Data in this paragraph derived from <<http://www.ilo.org>>, website last accessed on 28 September 2001.

²² This is not to say that sweatshops and bad working conditions do not exist in Western countries anymore (Cf., e.g., the 'No Sweat' campaign of the US Department of Labor; see Hemphill, 1999). It has, for example, been

Many of these aspects of child labour are reflected in the codes of conduct that companies draw up to deal with the issue. Table 3.1 in Part III outlined the different components that can generally be found in corporate codes on child labour. These include the minimum age to employment, and whether the company applies this world-wide or allows for differences between locations. Usually related to this is whether references are made to international standards and/or country laws. Moreover, the type of organization to which the code applies is relevant: is this only the company itself, or also others such as suppliers? An additional aspect concerns the monitoring of implementation: does the code clearly stipulate the systems and processes in place, and who is charged with it? Finally, sanctions seem crucial: what happens in case of violations, with the company, with its suppliers or other business partners, and with the children found to be working? The next sections analyse how the six garment companies address these issues, and how they and their stakeholders view the effectiveness of corporate codes of conduct.

4.3 SIX PIONEERING COMPANIES

Six companies were chosen from a larger set of forty multinational enterprises with child labour provisions in their corporate codes of conduct, of which the large majority operates in retail and apparel. From an analysis of these forty reference codes according to the criteria of table 3.1 in Part III, the six companies belonged to the most specific ones with much attention to monitoring and compliance.²³ Codes of conduct that meet these requirements have a high compliance likelihood, which means that there is a relatively high probability that companies conform in practice to what is stated (Part I).

The three European and three US garment companies are particularly interesting for the following reasons:

- Levi Strauss is frequently regarded as a pioneer in the field of corporate social responsibility, especially because it was the first to develop a code of conduct that placed the management of ethics and labour rights in the context of international supplier relations (CEP, 1998).
- Nike, another early adopter, has been singled out for NGO campaigns because of its market leadership, high-profile image and extensive marketing. Since 1992, it has revised its code of conduct several times, which is also conspicuous for the exceptionally high minimum age to employment (18 years for footwear, and 16 for apparel, accessories and equipment) (Van Tulder and Kolk, 2001; Wokutch, 2001).
- Gap is one of the few Western companies that has mandated Southern NGOs to monitor supplier compliance, in the case of the Mandarin International garment factory in El Salvador, but not in the company's other contract factories in fifty countries around the world.
- C&A is an interesting case because its code is monitored by the Service Organization for Compliance Audit Management (SOCAM), established by the

estimated that approximately 13,000 children work in US garment sweatshops
<<http://www.nikebiz.com/labor/age.shtml>>, website last accessed on 4 October 2001.

²³ For the full analysis of these 40 codes, which were selected from a set of more than 150 multinational companies, see Kolk and Van Tulder, forthcoming.

company as an internal, autonomous unit. Some scepticism has been expressed about SOCAM's independence.

- Hennes & Mauritz (H&M) is one of the few companies that has a 'broad' code of conduct with regard to the issue of child labour.
- WE is the first European company that has been certified according to the international Social Accountability 8000 Standard, and that wants its suppliers to do the same. Its code of conduct is equivalent to this SA8000 standard, drawn up by the Council on Economic Priorities Accreditation Agency (currently SAI, Social Accountability International).

All six garment companies have paid much attention to their codes, which are quite specific (see table 4.1). This means that, in terms of figure 4.1, they appear to support the view that codes are effective in addressing child labour. However, as table 4.1 and table 4.2 show, this does not resolve all dilemmas, because the companies have different approaches with regard to the minimum age they stipulate, the scope of the code, the types of monitoring and the parties entrusted with it, and the sanctions and implications in case of non-compliance. In other words, how to deal with negative side-effects, and what are the risks involved in the adoption and implementation of (strict) codes of conduct? And where is the boundary between corporate and governmental responsibility? These different dilemmas related to the codes themselves and to the implications will be examined next.

Table 4.1: Overview of specificity with regard to child labour in six corporate codes of conduct

| Companies | Specificity Indicators | | | | |
|---------------------|---|------------------|-------------------------------|---|----------------|
| | Minimum age to employment | Applicability | Reference | Organizations targeted | Nature of code |
| C&A | 14 | Country-specific | Host-country law | Suppliers | Strict |
| Gap Inc. | 14 | Country-specific | Host-country law | Manufacturing entities & their Subcontractors | Strict |
| H&M | 15 or 14 (as developing country exception) | Country-specific | ILO-Conv. 138, UN Child Conv. | Suppliers & Subcontractors | Broad |
| Levi Strauss | 15 (was 14 at the start of the research project) | Country-specific | Host-country law | Manufacturing entities & their Subcontractors | Strict |
| Nike | 16 (light manufacturing workers) 18 (footwear factory workers) | Country-specific | Local standards | Suppliers & Subcontractors | Strict |
| WE | 15 or 14 (as developing country exception) | Country-specific | ILO Conv. 138 & local law | Suppliers | Broad |

4.4 DILEMMAS OF CHILD LABOUR CODES

4.4.1 WHICH MINIMUM AGE IS APPROPRIATE?

As table 4.1 shows, the six garment companies all stipulate a minimum age, and two of them (H&M and WE) refer to international standards, which is much more specific and strict than the reference set of 40 codes.²⁴ C&A, Gap and Levi Strauss adhere to 14 years, unless host country law defines a higher minimum age to employment. In that case, this higher age will prevail. As such, this minimum age of 14 is one year less than included in ILO Minimum Age Convention 138. Convention 138 does, however, specify 14 years as a developing country exception, which means that it can be applied by countries whose economy and educational facilities are insufficiently developed. These are also the countries where most garment production takes place. In the late 1990s, Levi Strauss increased the minimum age to 15, which was stated to result from their continuous review and improvement strategy in this field.

Nike has reviewed its code of conduct a few times. These revisions have been accompanied by an increase in the minimum age from 14 to 18 years for footwear factory workers and from 14 to 16 for equipment or apparel. These are much higher than in ILO-Convention 138. Nike states that higher standards diminish “the potential for child labour in our contract factories” and “would have other, greater benefits”:

“To the family: every job provided an adult means one less job taken by a child, who is more vulnerable to exploitation. It also means one more opportunity for adult income to make child labour less necessary.

To the worker: an older worker is better equipped to make the job opportunity a positive experience.

To the factory: every first-time worker who is 16 or 18 is likely to be more mature, perhaps better educated, certainly more experienced, and better able to be more productive, and to handle the new routine and the demands of a factory setting.”

What the precise minimum must be, is not that straightforward however, as our survey among companies and stakeholders confirmed as well. Respondents emphasize that it depends very much on the type of work, cultural perceptions about the moment at which children become adults, a country’s stage of development and the existence of alternatives (such as education) for non-working children. This means that in the current situation, country-specific minimum ages seem most appropriate. Generally, however, 12 years is considered to be the absolute minimum age for light work (this is also the youngest age at which children can legally work on US farms), although many people would tend to set the standard substantially higher.

4.4.2 MONITORING: HOW AND BY WHOM?

The three European garment codes give relatively clear insight into the companies’ monitoring systems and processes. Most explicit are the provisions in the SA8000 Standard, which WE has adopted as corporate code. It gives detailed information about the

²⁴ Of the reference set, 43% does not include a minimum age, while only 10% explicitly mentions international standards (Kolk and Van Tulder, forthcoming).

management system, and the documentation that the company requires from its suppliers. The Gap and Nike codes are classified as ‘vague’ in table 4.2, because they merely state that the code will be monitored, without giving much specific details. Gap is least detailed, with its statement to “continue to develop monitoring systems to assess and ensure compliance”. In its sourcing and operating guidelines, Levi Strauss does not at all refer to compliance mechanisms or monitoring. This not only raises questions about the way in which the code is monitored, but also about whom is responsible for it. Companies rely on a wide variety of monitoring parties, ranging from internal agencies to external organizations specialized in auditing or NGOs.

Table 4.2: Overview of compliance indicators included in six corporate codes of conduct

| Companies | Compliance Indicators | | | |
|---------------------|--------------------------------|--|----------------------------------|----------------------------|
| | Monitoring systems & processes | Position of monitoring actor | Sanctions and their scope | Sanctions to third parties |
| C&A | Clear | SOCAM: internal, but independent | Suppliers | Severe |
| Gap Inc. | Vague | First party monitoring; plus independent monitoring in El Salvador | Factories that produce Gap goods | Severe |
| H&M | Clear | Internal monitoring | Suppliers | Mild |
| Levi Strauss | None | Internal monitoring; plus involvement of NGOs and external parties in Dominican Republic and the Philippines | None defined | N.A. |
| Nike | Vague | Internal & external monitoring | None defined | N.A. |
| WE | Clear | Specialized accounting firms (third party) | Internal & suppliers | Severe |

Additional information obtained from the companies learned that Levi Strauss perceives internal monitoring as most effective. At the same time, however, NGOs and other external parties have evaluated the implementation of the company’s code of conduct in the Dominican Republic and the Philippines. Levi Strauss is also an active member of the US Fair Labour Association and the Ethical Trading Initiative, which both involve external parties in the monitoring of member facilities.

H&M has only relied on internal monitoring so far, although its code of conduct leaves open the possibility of engaging independent third parties in inspections. Together with the NGO Clean Clothes Campaign, the company is developing a model for external monitoring that might be used in the future. Gap has used independent monitoring, but only in the case of the Mandarin factory in El Salvador. In all other supplying factories, the company itself does the monitoring. In Central America, it hired two ‘Sourcing compliance officers’, whose sole responsibility consists of checking supplier compliance with the company code, and who closely cooperate with Gap’s international quality assurance team.

C&A uses a conspicuous form of internal monitoring through its own Service Organization for Compliance Audit Management (SOCAM). Although created and funded by the company, SOCAM is structured in such a way as to be fully independent of C&A’s commercial activities. It has full and independent authority to monitor the standards included in the company code. C&A has no objections to third-party auditors, but thinks that they must take a detailed, grass-roots approach like SOCAM, which has a profound understanding of the company’s sourcing system, the national context of their suppliers and the peculiarities of garment production.

Third-party auditing is used by both Nike and WE. Nike currently uses a combination of internal and external monitoring. Since the latest revision of the code in 1998, an internal compliance program (Shape) has been supplemented with independent monitoring by PricewaterhouseCoopers. WE follows the SA8000 standard that requires independent external monitoring by auditing companies. The list currently consists of seven accredited certification bodies, including SGS and BVQI.

When asked, the majority of companies, governmental and non-governmental organizations supported independent monitoring in order to enhance the credibility and effectiveness of corporate codes of conduct. Only a minority of company respondents favoured internal monitoring, but this is generally not considered to be very reliable if not combined with other forms of external verification, because of conflict of interest problems. Independent external monitoring can be carried out by specialized agencies, auditing or consulting companies, or NGOs. Although some regard NGOs as most appropriate in this regard, others cast doubt on their capabilities and continuity, and the degree to which their own organizational purposes allow the label of 'truly independent'. Most respondents therefore favour 'foundation monitoring', carried out by an organization created by one or more internationally operating companies and labour or human rights groups. Companies pay dues to such a foundation, which in turn hires (mutually-consented) third parties to monitor compliance.

4.4.3 WHAT HAPPENS TO UNDER-AGE WORKERS?

Of the six garment companies, two have adopted a 'broad' code of conduct, which includes provisions for the children in case they are found to be working in supplying factories. H&M describes its approach, preceded by a paragraph on the company's position with regard to child labour in general:

"H & M does not accept child labour. We are concerned about the situation of children in many parts of the world. We acknowledge the fact that child labour does exist and can't be eradicated with rules or inspections, as long as the children's social situation is not improved. We want to actively work with factories and with NGO's in third world countries, to try to improve the situation for the children affected by our ban on child labour.

If a child is found working in any of the factories producing our garments, we will request the factory to make sure that the measures taken are in the child's best interest. We will, in co-operation with the factory, seek to find a satisfactory solution, taking into consideration the child's age, social situation, education, etc. We will not ask a factory to dismiss a child without a discussion about the child's future. Any measures taken should always aim to improve, not worsen, each individual child's situation. Any costs for education, etc. have to be paid by the factory."

WE adheres to the following:

"The company shall establish, document, maintain, and effectively communicate to personnel and other interested parties policies and procedures for remediation of children found to be working in situations which fit the definition of child labour

above [i.e. according to ILO-Convention 138], and shall provide adequate support to enable such children to attend and remain in school until no longer a child.”

- Although such broad codes are exceptional, the overwhelming majority of the respondents in our survey deems such an approach most appropriate. Only a few companies prefer strict codes, for which various reasons can be given. Some justifications for not including additional measures in child labour codes are: A code of conduct is a statement of principles, which should be supported by implementation policies in the factories from which the company sources. Therefore, not everything is detailed in a code of conduct, as often the solutions to situations are on a case-by-case basis, depending on what is the most suitable form of support. [Levi Strauss]
- Including additional measures in codes of conduct creates expectations. Providing alternatives to children should not be taken for granted. A company has a responsibility to help think about a solution, but suppose suitable schooling facilities do not exist, should a company establish them? In theory, education is not the responsibility of business, but of the state. [C&A]
- Codes of conduct are not the only formal strategies that companies have. In case the use of child labour is detected, other formal policies come into force. However, these policies are not visible to the public. But the code of conduct would become an enormous document, if all the possibilities are addressed at each and every provision. [Nike]

On its website, Nike also lists interesting dilemmas that it has been confronted with after the introduction of its latest code, and how the company dealt with them.²⁵ An example includes a second-tier supplier stitching shoe components, which justified the employment of a 17-year old by pointing at the fact that it was a sewing facility (to which the age of 16 applies). Nike also states that, out of the more than 500,000 persons in the contract factory supply base, approximately 100 have been under-age workers. The majority of them have been sent to school with continued payment.

It can be concluded that all respondents favour a broad approach to child labour, with an important role for specific, strictly implemented and monitored corporate codes of conduct, combined with alternative measures for under-age child workers. There is only some difference of opinion as to whether these arrangements must be included in the codes themselves or be part of a broader package of other policies, as preferred by a few company respondents.

4.5 LIMITS TO MULTINATIONAL RESPONSIBILITY?

The discussion on broad versus strict codes raises a range of questions. First of all, what happens to suppliers that employ children in violation of the company code? Which sanctions can they expect? And how far do these sanctions reach? Is the scope limited to direct suppliers only or to the supply chain as a whole? Furthermore, who must pay for the

²⁵ <http://www.nikebiz.com/labor/ch_keeps.shtml>, website last accessed on 4 October 2001.

corrective measures and the alternatives, such as the education mentioned by Nike? H&M clearly states that the facility has to bear the costs. But how fair is this, given the original reasons for outsourcing and the different distribution of costs and benefits between multinational and domestic companies? In other words, what can be expected from multinationals that operate in a developing country?

This aspect is also relevant to a final issue concerning the boundaries between corporate and public responsibility, as mentioned by C&A. Must multinationals provide educational facilities when the government does not? And does the debate on corporate codes of conduct lead to expectations that companies cannot reasonably be expected to fulfil, because they cannot be supposed to take over government responsibilities? These questions concerning the relationship with suppliers and the societal context, including the role of government, will be explored in the next section, using the information of the garment company codes and the survey results.

4.5.1 SUPPLIER RELATIONSHIPS

Suppliers and Supply Chains

There are differences in the clarity with which companies define the organizations targeted by their codes. The term 'supplier' is frequently used, sometimes without an explanation of whether this involves only the manufacturing entities, or also the providers of raw materials and/or the importers of merchandise. The analysis of the 40 corporate codes in the reference set resulted in a variety of definitions (Part III).

Levi Strauss clearly describes the organizations targeted, and also emphasizes the importance of indicating the scope of a code, that is the applicable supplier tier(s):

“Business partners are contractors and subcontractors who manufacture or finish our products and suppliers who provide raw materials used in the production of our products. We have begun applying the Terms of Engagement to business partners involved in manufacturing and finishing and plan to extend their application to suppliers.”

Like Levi Strauss, Gap aims clearly at manufacturers and their subcontractors; H&M and Nike at suppliers and subcontractors, indicated in a general way. Follow-up research clarified that all four companies concentrate on manufacturing entities (direct suppliers and subcontractors), not the providers of raw materials. This focus on production also applies to C&A and WE, but they address their direct suppliers. WE's certification to SA8000 means that it meets the requirement of handing over 'Letters of Commitment' to the auditors of those suppliers that take care of more than 50% of WE's total sales. The company encourages its suppliers to certify to the standard as well, thus hoping to create a 'spill-over effect' throughout the supply chain. The C&A code aims at their merchandise suppliers, while stating that:

“We specifically require our suppliers to extend the same principle of fair and honest dealings to all others with whom they do business including employees, subcontractors and other third parties. For example, this principle also means that gifts or favours cannot be offered nor accepted at any time.”

Although respondents emphasize the importance of extending corporate codes to the whole supply chain, the six garment companies currently do not. To follow such an approach would also be complicated for reasons of practice and principle.

Firstly, it can be very complex and expensive to monitor the whole subcontracting chain. Especially in the garment industry, sourcing networks may involve tens of thousands of factories spread across dozens of countries, and a range of buying agents, suppliers and subcontractors. The case of C&A can serve as an illustration: when the company started its monitoring system, it required four years before it was clear which factories produced the clothes (Green, 1998). And this only involved manufacturing. So to check all the actors in such networks for their compliance with the corporate code would be even more complicated, and also represent a heavy financial burden for a multinational company, particularly for small companies. One might, however, argue that this is simply one of the consequences of the current structure of international production, and even that multinationals have so far escaped its full costs. But it might have implications for the way in which costs (and benefits) are distributed throughout the chain, and perhaps affect final consumer prices as well.

Secondly, to include the supply of raw materials would, in the case of garment production, mean that monitoring also starts to apply to the agricultural sector. Here the percentage of child workers is even greater than in manufacturing. According to ILO (1998) data, more than 70% of the economically active children works in agriculture. Hence, in such a full supply-chain approach, corporate codes would apply to many more child workers. At the same time, however, one might ask how reasonable it is to expect companies to extend their responsibilities that far back in the supply chain. A few respondents argued that this is unrealistic, and pointed at the role of government in this respect.

Sanctions and Costs

What happens to the suppliers if they do not comply with the codes, and are there provisions as to which company must pay for any alternative arrangements? Levi Strauss and Nike do not include sanctions and, since they have strict codes, do not refer to costs for, e.g., education. The other two companies with strict codes, C&A and Gap, state that violations will have severe consequences.

“Where we believe that a supplier has breached the requirements set out in this Code either for C&A production or for any other third party, we will not hesitate to end our business relationship including the cancellation of outstanding orders. We also reserve the right to take whatever other actions are appropriate and possible.

Where business has been suspended due to an infringement of the C&A Code of Conduct, the business relationship may only be re-established after a convincing Corrective Plan has been submitted by the supplier and approved by C&A.”

C&A also requires corrective plans if there are infringements but no fully conclusive evidence to terminate business relationships. Such a plan must include alternative arrangements for children, and suppliers must pay for them. Gap leaves open the possibility of requesting a corrective plan from their suppliers, but it is unclear when this will be the case:

“If Gap determines that any factory has violated this Code, Gap may either terminate its business relationship or require the factory to implement a corrective

action plan. If corrective action is advised but not taken, Gap will suspend placement of future orders and may terminate current production.”

H&M is more explicit with regard to the situation for suppliers, and also milder:

“Should we find that a supplier does not comply with our Code of Conduct, we will terminate our business relationship with this supplier, if corrective measures are not taken within an agreed time limit.

If we find repeated violations, we will immediately terminate the co-operation with the supplier and cancel our existing orders.”

However, as already quoted in the section on the consequences for the children, the costs for alternative arrangements must be paid by H&M's factories. In following the SA8000 standard, WE is the only company that also clearly indicates its own responsibility in ensuring compliance:

“The company [i.e. WE] shall implement remedial and corrective action and allocate adequate resources appropriate to the nature and severity of any non-conformance identified against the company's policy and/or the requirements of the standard.”

The way in which the other companies formulate their sanctions implies a tendency to shift the responsibility and the costs to the suppliers. This can be seen as a straightforward policy, provided that these consequences have been clearly communicated to suppliers and subcontractors from the very beginning. It does, however, raise questions about how responsible the multinational company is. After all, the multinational decided to outsource production internationally to reduce costs, and might have suspected that these tremendous savings resulted from bad working conditions and very low wages, with a high likelihood of child labour.

One could then doubt whether it is fair to shift the full blame to local suppliers and to require them to pay the costs from their usually tiny profits. This is all the more the case as labour costs are only a very small percentage of the final consumer price. Well-known is the example of the Nike shoe, for which 1995 calculations showed that total labour costs amounted to less than 4% (Anon, 1995); more recent figures for China even suggest less than 1.5% (Anon, 2000). For the local contractor, however, labour-cost savings from child labour can be substantial. According to ILO studies in the bangles and carpet industries, loom owners can double their small income if they use child labour (Fyfe and Jankanish, 1997).

4.5.2 SOCIETAL CONTEXT

These dilemmas related to supplier relationships need to be considered because they might hamper the effectiveness of corporate codes of conduct, both with regard to the child labour problem and for the company involved. Taking the company perspective, it could be argued, as one respondent did, that:

Companies should have realistic and justifiable standards in all business matters. Addressing possible supply chain issues is one part of a business strategy and, as such, should be covered by standards, i.e., a code of conduct.

This discussion on limits to multinational responsibility also raises other questions concerning the broader societal context. One issue is the relatively limited percentage of children (perhaps less than 5%) that are employed in export industries. Although some respondents agree that this hampers the effectiveness of corporate codes, they generally argue that codes are only part of a possible solution to the child labour problem. Multinational must take their share in addressing it, thus serving as examples and role models, and hopefully help to incite broader approaches, particularly in the host countries. As one company respondent said:

If implemented wisely, the corporate code of conduct should put pressure on local legislation and most importantly on the International Labour Organization to ensure compliance with the Conventions.

Respondents also suggested other aspects that focused less on the ILO, and more on families and parents, local communities and governments. This included attention to adult wages, alternative means for generating incomes, and assistance for the establishment of schooling facilities and for improving governments' regulatory and enforcement capabilities of minimum-age and educational requirements. Companies, NGOs, Western government and international organizations could all contribute to such programmes, starting at the local level. However, a really effective strategy against child labour can only succeed if the economic conditions for large segments of the population are improved.

In the current situation, the frequent lack of host-country regulation and particularly the enforcement of existing standards could potentially lead to tensions between multinational companies and governments. If a developing country has, for example, laws that stipulate a minimum age to employment of 12 years, company requirements for higher ages might be regarded as a condemnation of local legislation and even as the imposition of Western standards. The multinational company could be accused of interfering with national approaches and of showing a lack of respect for host-country cultural traditions.

Most respondents do not see these risks as very great, particularly because there is widespread recognition of the problematic situation for children in many parts of the world, and of the need to combat their exploitation. Although not all countries have ratified the ILO-Conventions and thus do not agree with the specific interpretations, the norms as such are universally accepted through the adoption of the UN Convention on the Rights of the Child. This also gives multinationals sufficient freedom to follow such standards if they prefer, as long as they recognize the broader context. Company and governmental respondents suggest that this could have a positive 'spill-over' effect in the host country, something which NGOs regard with scepticism.

Finally, the suggestion that companies should refrain from adopting child labour codes because of the many dilemmas involved, including possible reputational risks when violations come to light, is not widely shared. Although the adoption of codes might raise expectations that companies cannot always reasonably be expected to fulfil, there is no fear for backfire. Negative publicity and damage to the corporate image are thought to be much greater if companies do not address the problem. Moreover, the issue of child labour is not considered to be a matter for governments only. Respondents share the view that companies must play their own role in this respect, and take their responsibilities to do whatever they reasonably can.

4.6 CONCLUSIONS

Overall, corporate codes of conduct are considered to be important, though not the only, instruments for addressing child labour. Their possible negative side-effects and limitations are not seen as crucial factors that harm their effectiveness. Our research shows support for specific corporate codes that are strictly implemented and monitored, combined with alternative arrangements for under-age child workers. The overwhelming majority of the respondents thinks that such a broad approach must be included in the corporate codes. Some company representatives regard this as something that need not necessarily be mentioned in the codes themselves, but can be part of supplementary policies. A caveat to the latter position is, however, that there are no guarantees that companies really have them in place, if not included in the corporate code or if the code does not contain references to such other policies or arrangements.

European companies tend to favour clearer monitoring systems, while adopting broader codes more frequently than US companies. Interestingly enough, European companies draw up their corporate codes a few years later than their counterparts at the other side of the ocean; this clearly applies to the six garment companies analysed in this chapter. The greater chance of reputational damage related to the US business system results in earlier adoption and, paradoxically, in more vaguely monitored, but at the same time also strictly formulated codes.²⁶ Such a different approach is likely to influence the effectiveness of corporate codes in addressing child labour.

If we link this all to figure 1, position 1 is clearly adopted, but combined with a role for the alternative measures at which position 3 hints. As to the unintended side-effects that might hamper codes' effectiveness (position 2), respondents point at the importance of independent monitoring. There are many dilemmas related to the boundaries of corporate responsibility, such as the extent to which the supply chain is considered and how to deal with different perceptions to child labour in their home and host countries. Although corporate codes of conduct only cover a small percentage of child workers, multinationals can set a standard and influence other companies and governments, thus perhaps helping to further international attempts to address child labour. What can be expected from multinationals in all these difficult dilemmas is that they clearly state their views and approaches, preferably in their code of conduct. There is no support for position 4, because both business and government must take their own responsibilities.

While this chapter clearly underlines that self-regulation, with codes of conduct as most common instruments, is considered effective in promoting corporate social responsibility, it must be emphasised that the findings are based on exploratory research. Moreover, we deliberately selected a number of pioneering companies in a sector that has been very much confronted with child labour concerns, in order to shed light on the dilemmas that they face. Research into a larger set of companies, covering other industries as well, and with a greater number of governmental and non-governmental opinion leaders, could be helpful to obtain insight into the general validity of our results. This might also include an analysis of divergences between companies from different home countries, and of the effectiveness of the whole spectrum of corporate and public policies taken to address the issue of child labour.

²⁶ This is in line with research on environmental reporting, where external verification and auditing is merely a European phenomenon, whereas US companies started to report at an earlier stage.

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FRAMEWORK OF ANALYSIS

| Criteria | | Short elaboration | Classification | |
|-------------|--------------------------------------|---|---|---|
| SPECIFICITY | ISSUES | 1.1 Social | employment (employment promotion, equality of opportunity and treatment; security of employment) training working conditions (wages and benefits; conditions of work and life; safety and health) industrial relations (freedom of association; collective bargaining; consultation; examination of grievances; settlement of industrial disputes) force (child labour; forced labour; disciplinary practices) | ranging from: 0 out of 5, to 5 out of 5 |
| | | 1.2 Environment | management policies and systems (subdivided into 4 aspects) input/output inventory (6 aspects) finance (2 aspects) stakeholder relations (7 aspects) sustainable development (3 aspects) | ranging from: 0 out of 5, to 5 out of 5 |
| | | 1.3 Generic | consumer interests (consumer needs; disclosure of information; consumer concerns; marketing practices) community interests (community involvement; disclosure of information; community philanthropy/sponsoring) global development (global issues; socio-political setting; fair and free trade practices; third world development; third world philanthropy/sponsoring) ethics (fundamental human rights and freedoms; fundamental ethical values; bribery and facilitating payments) legal requirements (legal compliance; compliance vis-à-vis business partners) | ranging from: 0 out of 5, to 5 out of 5 |
| | FOCUS | 2.1 Organizations targeted | general; firms; industries; business partners; internal operations of specific firms | general/firms/ industries/ partners/internal |
| | | 2.2 Geographic scope | global (general); nearly global (frail); general region (moderate); regulatory system (moderate to strong); specific country (strong) | no/general/frail/ moderate/ moderate to strong/strong |
| | | 2.3 Nature | general prescription/description (general); predominantly general (frail); general and specific (moderate); predominantly specific (moderate to strong); specific (strong) | no/general/frail/ moderate/ moderate to strong/ strong |
| | MEASURE | 3.1 Quantitative standards | % of issues quantified: >90% (predominant); 51%-90% (majority); 25%-50% (medium); 10%-25% (minority); <10% (few) ; none (no) | predominant/ majority/medium/ min-ority/few/no |
| | | 3.2 Time horizon | quantification % of >90 (predominant); 51-90 (majority); 25-50 (medium); 10-25 (minority); <10 (few); none (no) qualitative division into none defined; vague; clear | ibid.; and none/ vague/clear |
| | | 3.3 Reference | none defined; home country; host country; international; or combinations | like preceding box |
| COMPLIANCE | 4.1 Monitoring systems and processes | good insight into system and process (clear); reference to some parts, but criteria or time frames are lacking (clear to vague); only general reference to monitoring without details (vague) | clear/clear to vague/vague/ none | |
| | 4.2 Position of monitoring actor | firms themselves (1st party); BSGs (2nd party); external professionals paid by firms (3rd party); combinations of different actors (4th party); SIGs (5th party); legal authorities (6th party) | ranging from: 1st to 6th party | |
| | 4.3 Sanctions | measures have no large implications, e.g. warnings and exclusion of membership (mild); threat to business activities (severe) | none/mild/ severe | |
| | 4.4 Sanctions to third parties | measures such as fines, or demands for corrective action (mild); severance of relationship, cancellation of contract (severe) | n.a./none/ mild/severe | |
| | 4.5 Financial commitment | classification according to level of fee or relative investment | low/moderate/ high/very high/ none | |
| | 4.6 Management commitment | no commitment stipulated (none); includes a list of endorsing firms (explicit); or with regard to company codes, when business partners must sign it (explicit); commitment implied (implicit) | none/implicit/ explicit | |

EXEMPLARY APPLICATION NESTLÉ'S BUSINESS PRINCIPLES

Introduction – Nestlé The World Food Company

Since Henri Nestlé developed the first milk food for infants in 1867, the Nestlé company has gained vast experience through its scientific research into the nutritional needs and food preferences of consumers of all ages. No other food company invests so much in fundamental and applied research.

The company has been a leading food manufacturer and major purchaser of agricultural raw materials for over 130 years. Food and agriculture are an integral part of the social, cultural, economic and political context of every community. Since Nestlé activities in Switzerland, its country of origin, account for less than 2% of its global turnover, Nestlé learned very early to respect the social, political and cultural traditions of all countries in which the products are produced and sold, and to be a highly decentralised "people and products" oriented company rather than a systems centred organisation. Today, Nestlé is the world's largest and most diversified food company, with nearly 500 factories in 77 countries, producing healthy, enjoyable food products for every stage of life.

Quality is the cornerstone of the success of the Nestlé Company. Every day, millions of people all over the world show their trust in the company by choosing Nestlé products. This trust comes from a quality image that has been built up for over a century.

Nestlé carries out its global social responsibility, firstly, by taking a long term approach to strategic decision making which recognises the interests of our consumers, shareholders, business partners, and the world-wide economies in which we operate. Secondly, our responsibilities and values are reflected by the commitment of management and employees at all levels, to the following specific Corporate Business Principles, which define standards of behaviour for all companies in the Nestlé Group, and are intended to complement applicable legislation and international recommendations.



P. BRABECK-LETMATHE
CHIEF EXECUTIVE OFFICER
NESTLÉ S.A.

Nestlé Corporate Business Principles

Nestlé is committed to the following business principles in all countries, taking into account local legislation, cultural and religious practice.

- Nestlé's business objective and that of management and employees at all levels, is to manufacture and market the company's products in such a way as to create value that can be sustained over the long term for consumers, shareholders, employees, business partners and the large number of national economies in which Nestlé operates.
- Nestlé does not favour short-term profit and at the expense of successful long term business development, but recognises the need to generate profit each year in order to maintain the support of the financial markets, and to finance investments.
- Nestlé believes that, as a general rule, legislation is the most effective safeguard of ethical conduct, although in certain areas, additional guidance to management and employees in the form of voluntary business principles, is beneficial in order to ensure that the highest standards are met throughout the organisation.
- Nestlé is conscious of the fact that the success of a corporation is a reflection of the professionalism, conduct and ethical values of its management and employees, therefore recruitment of the right people, and ongoing training and development are crucial.
- Nestlé recognises that consumers have a legitimate interest in the company behind the Nestlé brands, and the way in which the Nestlé Company operates.

Legislation and International Recommendations

Nestlé

- complies with the laws applicable in the countries in which it operates.
- ensures that the highest standards of ethical conduct are met throughout the organisation, by complying in a responsible way with the Business Principles, which guide company activities and relationships world-wide in each sector of business interest.
- is aware that increasing globalisation is leading to the development of more and more international recommendations. Although, as a general rule, these recommendations are addressed to governments, they inevitably impact on business practices; Nestlé has taken such recommendations as the ILO Basic Rights, and the International Code of Marketing of Breast-milk Substitutes (WHO) into account in its policies.
- generally endorses commitments and recommendations for voluntary self regulation issued by competent sectoral organisations, provided they have been developed in full consultation with the parties concerned; these include the ICC Business Charter for Sustainable Development, and the OECD Guidelines for Multinational Enterprises.

Consumers

- Nestlé aims to create value for consumers that can be sustained over the long term by offering a wide variety of high quality, safe food products, at affordable prices.
- Nestlé believes that advertising and other communications play an important role in encouraging consumers to exercise their right to informed choice. In order to fulfil this role in a responsible way, the Company makes a determined effort to ensure that Nestlé advertising:
 - does not mislead as to the benefits derived from use of the product
 - does not use gratuitous violence, sex or profanity
 - does not depict discriminating or offensive attitudes to religious, political, ethnic, cultural or social groups
 - avoids demonstrations that encourage dangerous, or inappropriate use of the product
 - does not portray competitors' products inaccurately, nor denigrate competitors' products
 - avoids the exploitation of media events which could be in bad taste or conflict with the corporate image.

- In addition to the above principles, Nestlé does not sponsor TV and radio programmes or magazines whose strategy of attracting viewers or readers lies clearly in the use of gratuitous violence, sex or offensive attitudes to either majority or minority groups.

Children as Consumers

Nestlé has developed the following principles for **advertising to children**:

- communications (including advertising, events, sponsorships) to children should not be disguised as programming or editorial;
- advertising to children should not attempt to undermine the authority, responsibility or judgement of parents or care providers;
- advertising to children should not portray children in unsafe situations nor encourage them to accept invitations from people they do not know;
- food and beverage communication should not demonstrate either unsafe or irresponsible consumption.

Infants

When Henri Nestlé developed his milk food for babies over 130 years ago, it saved the life of a baby who could not be breast-fed. Nestlé's invention responded to the need for safe and nutritious alternatives to breast milk, but he insisted that every mother able to do so, should breast-feed her own baby. This principle is still the corner stone of Nestlé policy today, and is in line with the aim of the International Code of Marketing of Breast-milk Substitutes, which was adopted by the World Health Assembly in 1981. The International Code recognises a legitimate market for infant formula and provides recommendations to governments on how its marketing should be regulated.*

* a breast-milk substitute manufactured according to internationally agreed standards of composition and quality, capable of satisfying the normal nutritional needs of a baby during the first 4 to 6 months of life.

Therefore Nestlé:

- encourages and supports breast-feeding as the best start in life;
- carries out research and development aimed at the constant improvement of infant formula products for use when a safe alternative to breast milk is needed;
- ensures that its infant formula marketing practices conform strictly with national legislation, regulations, or other measures taken by governments to give effect to the aim and principles of the International Code.

In addition, in all developing countries, whether or not their governments have taken adequate action to implement the International Code, Nestlé:

- gives detailed instructions to its staff on how to implement the International Code (first published after consultation with WHO in 1982, and updated in 1996);
- provides a summary of its policy for the information of employees and the public in the form of a CHARTER (see appendix) which is translated into many languages;
- developed its infant formula labels and educational materials in line with the Code after field research and consultation with the World Health Organisation;
- conducts or sponsors research to identify the factors contributing to malnutrition and infant mortality and provides a basis for improving educational efforts;
- regularly conducts training of employees to ensure complete understanding of the Company's responsibilities under the International Code.

Nestlé is a founding member of the International Association of Infant Food Manufacturers (IFM) which was formed to facilitate industry dialogue with WHO and governments, and to encourage high ethical marketing standards for the infant food industry.

Human Resources and the Workplace

Nestlé regards its management and employees as its most valuable assets. Involvement at all levels starts with open communication, whether on specific aspects of the business, or about the activities of the Company in general. Suggestions for changes and proposals for improvements of Nestlé's practices are encouraged.

The Company's business practices are designed to:

- promote a sense of identification among all employees all over the world, and apply a number of common rules while at the same time adapting the expression of these rules to local customs and traditions;
- encourage training, and the improvement of professional skills;
- offer opportunities for promotion based upon merit, irrespective of race, religion, sex or nationality. Professional skills, experience, and the capacity and willingness to apply Nestlé management principles are the criteria for promotion.

- offer competitive salaries and social benefits. Working hours, wages and overtime pay comply with applicable local laws and are in line with conditions offered by similar companies.
- limit factory overtime to a reasonable level;
- create a safe working environment for each employee;
- respect the right of employees to join legally recognised labour unions;
- treat every employee with respect and dignity, and not tolerate any form of physical or sexual harassment or abuse;
- preclude the use of forced labour or involuntary prison labour.

Child Labour

It is generally acknowledged that the causes of child labour are complex and include poverty, differing stages of economic development, social values and cultural circumstances.

Nestlé believes policy development must take into account the social and legal situation of individual countries.

Action to eliminate child labour must be guided by the best interests of the child, as ill-considered policies and commercial measures can make the situation worse for children.

Therefore:

- Nestlé is against all forms of exploitation of children. The Company does not provide employment to children before they have completed their compulsory education and expects its business partners and industry suppliers to apply the same standards.
- Nestlé abides by national laws in all countries in which the Company has operations and complies with the principles of Clause 138 of the International Labour Organisation (ILO) Convention concerning the minimum age for employment. The ILO recommendations are based on the United Nations Convention on the Rights of the Child (Article 32).
- Nestlé offers its co-operation with the relevant United Nations agencies, governments and the business community in their efforts to deal with the problem of child labour, which include the encouragement of universal primary education, and all aspects of economic development world-wide.

Business Partners

- Nestlé insists on honesty, integrity and fairness in all aspects of its business and expects the same in its relationships with all business partners.
- Nestlé therefore supports and applies:
 - The International Chamber of Commerce revised rules on extortion and bribery in international business transactions, which recommend governments to prohibit extortion and bribery for any purpose (adopted by the ICC Executive Board on March 26, 1996).
 - OECD Recommendations on Bribery and International Business Transactions of May 1994 and the new OECD Convention to counteract corruption which was signed by all the member countries and by Argentina, Brazil, Bulgaria, Chile and Slovakia on 17.12.1997 (The signatories undertake to consider corruption of foreign officials a penal act under their national law).
- Nestlé also supports OECD efforts to have non-member nations adhere to the OECD recommendations for fighting against corruption.

Conflict of Interest

Nestlé requires its management and employees to avoid personal activities and financial interests which could conflict, or appear to conflict with their commitment to their jobs.

Relationship with Suppliers

Nestlé aims to deal only with reputable suppliers who are willing to apply Nestlé quality standards. Supplier relationships are benchmarked and evaluated with the objective of striving for continued improvement in the area of quality, service, etc. As a relationship between a supplier and Nestlé strengthens and progresses, it may evolve into one of preferred supplier status, partnering or a strategic alliance.

Selected suppliers with whom Nestlé has contractual relationship will be audited in order to ensure that they comply with the Nestlé Business Principles or that they work actively to achieve them. Whenever instances of non-compliance are brought to the Company's attention, Nestlé shall ask that corrective measures be initiated.

Nestlé personnel will maintain the highest standard of integrity and professional competence in all business relationships. Sanctions will be applied in the event of misconduct or abuse of established ethical standards and guidelines.

Competition

Nestlé supports free enterprise and therefore competes fairly and ethically and recognises other companies' right to do so. The Company supports the development of competition laws to protect this principle.

External Relations

Authorities: Nestlé supports ongoing dialogue between the food industry sectors in which it is active, and the appropriate (government) authorities at both national and international level, in order to promote and implement relevant legislation, regulations and/or agreements which protect the rights of the consumer whilst ensuring a healthy competitive environment.

Business relations: Nestlé's business relations are based on the principles of mutual trust, fairness and professionalism in the context of a free-market economy.

Academic/Professional Relations: Nestlé encourages two way communication and cooperation with academic and professional bodies to foster continual updating of knowledge for mutual benefit, leading to the constant improvement of the Group's products, policies and services.

Financial: Nestlé communicates openly, directly and accurately. Material information is given simultaneously to the financial community. The financial community has access to the Company's specialists assigned to this task, but no individual or institution should be given preferential treatment.

Nestlé welcomes recommendations from any source, and is open to dialogue on issues of mutual interest.

Protection of the Environment

Since its early days Nestlé has been committed to environmentally sound business practices throughout the world, and has made substantial investments over the years in environmental management. In this way Nestlé contributes to sustainable development by meeting the needs of the present without compromising the ability of future generations to meet their own needs. The Nestlé Policy of the Environment, published in 1991, underlines this commitment. Nestlé also adheres to the International Chamber of Commerce (ICC) Business Charter for Sustainable Development. This Charter requires the establishment of policies, programmes and practices for conducting operations in an environmentally sound manner.

Nestlé:

- integrates environmental policies, programmes and practices into each business as an element of management in all its functions;
- develops, designs and operates facilities and conducts its activities taking into consideration the efficient use of energy and materials, the sustainable use of renewable resources, the minimisation of adverse environmental impact and waste generation, and the safe and responsible disposal of residual wastes;
- supports professional associations – such as ICC, World Business Council for Sustainable Development, European Recovery and Recycling Association (ERRA) – in their work on draft standards and regulations relative to environmental protection, as well as in efforts to set up environmental management aids;
- applies Nestlé internal standards suitable to local conditions in those regions where specific environmental legislation is not yet in place;
- improves environmental protection relevant to its activities on a continuous basis;
- provides appropriate information, communication and training to build internal and external understanding about its environmental commitment and action.

Nestlé has developed and adopted the Nestlé Environmental Management System (NEMS), and is working towards its extensive implementation.

Nestlé specialists from many disciplines evaluate compliance with the Company environmental standards, propose new measures, coordinate implementation throughout the Group, and encourage clear national laws. Among their many activities, these specialists advise on measures to reduce the environmental impact all along the supply chain, from raw materials through manufacturing, packaging, distribution and transport methods, to waste treatment.

Agricultural Raw Materials

Agricultural raw materials, principally milk, coffee, cocoa, cereals, vegetables, fruit, herbs and spices, are a vital factor affecting the quality and costs of Nestlé manufactured food products, and as a consequence, for the Company's business performance. Sourcing strategies and production methods are subject to an ever changing environment. New technological developments in the field of agriculture, changes in agricultural policies or trade regulations, new technologies in food processing, and changing consumer preferences, mean that Nestlé must adapt its sourcing strategies accordingly. This is a continuous process.

Governments and/or political institutions regulate farming in general, as well as farm subsidies and the trade of farm products. Because of the effect of such measures on pricing, availability, domestic and international trade, and the economic, social and ecological aspects of farming, Nestlé engages in constructive dialogue with government institutions (primarily through professional organisations), and cooperates with local authorities.

In this context Nestlé:

- supports sustainable farming practices that by definition satisfy long term economic, ecological and social requirements. These requirements are best achieved through integrated production methods*.
- sources its agricultural raw materials either through trade channels or directly from farmers and does not engage in its own commercial farming activities.
- supports mechanisms which contribute to a more regular income to farmers.
- where appropriate, provides agricultural assistance to farmers in order to :
 - transfer know-how
 - ensure ongoing supply at competitive conditions
 - obtain raw materials of the required quality specification
 - support sustainable farming practices
 - encourage an economically viable agricultural environment

* Integrated production is a holistic farming system that ensures profitability of crops while safeguarding the farm's natural assets in the long term. It is a method that takes into account local soil, climatic and economic conditions. Integrated Pest Management (IPM) uses mutually compatible techniques for controlling the population dynamics of the pest species at levels below those causing economically unacceptable damage or loss.

- supports the application of new technologies, and advances in agricultural science – including the opportunities offered by modern biotechnology - when their positive effect on food safety, environment, agricultural practices, and production efficiency, are scientifically confirmed.
- recognises the importance of genetic diversity as a pillar for future developments in agriculture and life science and supports its preservation.

Nestlé Direct Procurement of Agricultural Raw Materials.

As previously mentioned, Nestlé uses both traditional purchasing channels and direct procurement from farmers for its agricultural raw materials. Significant amounts of milk, coffee and cocoa, – among the most important raw materials used by Nestlé – are sourced directly from local producers. Nestlé supports measures designed to improve conditions for small farmers and their cooperatives. For example, Nestlé has been a pioneer in the development of fresh milk collection in the developing world for more than 70 years, while green coffee is purchased directly in a number of coffee growing countries where there are one or more Nestlé soluble coffee factories.

The decision to establish a Direct Procurement system depends on a number of factors, including government regulations, long term feasibility and sustainability – and especially the reliability of supply. Direct Procurement provides the following benefits to small farmers and co-operatives :

- transparent quality evaluation measures,
- clearly announced prices with a scale of quality premiums which encourage farmers to achieve and maintain high quality standards,
- Nestlé agricultural service assistance for those farmers who seek to improve their quality and yield, and thereby obtain premium prices for the agricultural raw materials they sell to Nestlé,
- freedom for the farmer to choose an alternative to selling his produce to a local middleman or trader.

Compliance

Nestlé is committed to the application of these principles in all countries, and wherever they are not in conflict with relevant local legislation where it operates.

Nestlé compliance with its Corporate Business Principles is regularly monitored by its internal auditors on the basis of clear auditing instructions, which are certified by the external auditing firm KPMG.

Findings and recommendations are reported to the Nestlé S.A. Board of Directors.

Analysis of code of conduct: Nestlé Corporate Business Principles 1998

| Criteria | | Short elaboration | Classification | |
|-------------|--------------------------------------|---|---|------------------------------|
| SPECIFICITY | ISSUES | 1.1 Social | employment (employment promotion, equality of opportunity and treatment) training working conditions (conditions of work and life; safety and health) industrial relations (freedom of association; consultation) force (child labour; forced labour) | 5 out of 5 |
| | | 1.2 Environment | management policies and systems (integrated environmental management) input/output inventory (inputs; outputs) sustainable development (global environment) | 3 out of 5 |
| | | 1.3 Generic | consumer interests (consumer needs; disclosure of information) global development (fair and free trade practices;) ethics (fundamental ethical values; bribery and facilitating payments) legal requirements (legal compliance) | 4 out of 5 |
| | FOCUS | 2.1 Organizations targeted | general; firms; industries; business partners; internal operations of specific firms | Internal & business partners |
| | | 2.2 Geographic scope | global (general); nearly global (frail); general region (moderate); regulatory system (moderate to strong); specific country (strong) | General |
| | | 2.3 Nature | general prescription/description (general); predominantly general (frail); general and specific (moderate); predominantly specific (moderate to strong); specific (strong) | Frail |
| | MEASURE | 3.1 Quantitative standards | % of issues quantified: >90% (predominant); 51%-90% (majority); 25%-50% (medium); 10%-25% (minority); <10% (few) ; none (no) | None |
| | | 3.2 Time horizon | quantification % of >90 (predominant); 51-90 (majority); 25-50 (medium); 10-25 (minority); <10 (few); none (no) qualitative division into none defined; vague; clear | None |
| | | 3.3 Reference | none defined; home country; host country; international; or combinations | Host & International |
| COMPLIANCE | 4.1 Monitoring systems and processes | good insight into system and process (clear); reference to some parts, but criteria or time frames are lacking (clear to vague); only general reference to monitoring without details (vague) | Vague | |
| | 4.2 Position of monitoring actor | firms themselves (1st party); BSGs (2nd party); external professionals paid by firms (3rd party); combinations of different actors (4th party); SIGs (5th party); legal authorities (6th party) | 1st party | |
| | 4.3 Sanctions | measures have no large implications, e.g. warnings and exclusion of membership (mild); threat to business activities (severe) | None | |
| | 4.4 Sanctions to third parties | measures such as fines, or demands for corrective action (mild); severance of relationship, cancellation of contract (severe) | Mild | |
| | 4.5 Financial commitment | classification according to level of fee or relative investment | No | |
| | 4.6 Management commitment | no commitment stipulated (none); includes a list of endorsing firms (explicit); or with regard to company codes, when business partners must sign it (explicit); commitment implied (implicit) | Implicit | |

Analysis of child labour issue: Nestlé

| | Criteria | Short elaboration | Classification |
|--------------------|--------------------------------------|---|-----------------------|
| SPECIFICITY | 1.1 Minimum age to employment | Does the code include a minimum age to employment? If so, what age? | No |
| | 1.2. Applicability | Is this a universal minimum age or are country-specific exceptions indicated? | Not defined |
| | 1.3. Organization targeted | To whom is the code addressed? General, governments; internal operations of specific firms; business partners (suppliers, subcontractors, vendors, manufacturers) | Vague |
| | 1.4. Reference | Is reference made to international standards (ILO, UN), either implicit or explicit, or to home-country or host-country laws? | Host; international |
| | 1.5. Nature of code | Are alternative measures included in the code (such as education for children)? Or does the code only prohibit child labour? | Broad |
| COMPLIANCE | 2.1 Monitoring systems and processes | good insight into system and process (clear); reference to some parts, but criteria or time frames are lacking (clear to vague); only general reference to monitoring without details (vague) | Vague |
| | 2.2 Position of monitoring actor | firms themselves (1st party); BSGs (2nd party); external professionals paid by firms (3rd party); combinations of different actors (4th party); NGOs (5th party); legal authorities (6th party) | 1st party |
| | 2.3 Sanctions | measures have no large implications, e.g. warnings and exclusion of membership (mild); threat to business activities (severe) | none |
| | 2.4 Sanctions to third parties | measures such as fines, or demands for corrective action (mild); severance of relationship, cancellation of contract (severe) | mild |