

THE UN GLOBAL COMPACT: THE CHALLENGE AND THE PROMISE

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Abstract: The UN Global Compact is a voluntary initiative designed to help fashion a more humane world by enlisting business to follow ten principles concerning human rights, labor, the environment, and corruption. Although the four-year-old Compact is a relatively successful initiative, having signed up over eleven hundred companies and more than two hundred of the large multinationals, and having begun some important projects on globalization issues, there is a serious problem in that very few of the major U.S. companies have joined. While the premier U.S. companies are interested in meeting the legitimate expectations of society, there is concern centering around accountability issues. The accountability issues are in four major areas: 1. Accountability showing that the globalization of the economy actually helps the poor. 2. Accountability showing the corporate performance matches rhetoric. 3. Accountability that provides legitimacy to a two-tier pricing system and other measures that are designed to assist the poor in developing countries. 4. Accountability in the human rights area; what societal expectations are multinational companies accountable for? The article outlines the problems that the Compact brings to the fore and offers some insight from the ethical literature that may address U.S. company concerns or provide new ways of thinking about the issues. It further argues that the forum provided by the Compact may be the most effective means to gain consensus of the role of business in society.

The United Nations Global Compact is a new initiative intended to increase and to diffuse the benefits of global economic development through voluntary corporate policies and actions. Kofi Annan, secretary-general of the United Nations, addressing the Davos World Economic Forum in January 1999, challenged business leaders to join a “global compact of shared values and principles” and to provide globalization a human face. Annan argued that shared values provide a stable environment for a world market and that without these explicit values business could expect backlashes from protectionism, populism, fanaticism and terrorism.¹ Following the 1999 Davos meeting, Annan and a group of business leaders formulated nine principles, which have come to be known as the UN Global Compact. After lengthy consultation, a tenth principle against corruption was added in June 2004.

The ten principles of the Global Compact focus on human rights, labor rights, concern for the environment and corruption and are taken directly from commitments

made by governments at the UN: the Universal Declaration of Human Rights (1948); the Rio Declaration on Environment and Development (1992); the International Labor Organization's Fundamental Principles and Rights at Work (1998); and the UN Convention Against Corruption (2003). The principles are:

Human Rights

Principle 1

Businesses should support and respect the protection of internationally proclaimed human rights within their sphere of influence; and

Principle 2

make sure that they are not complicit in human rights abuses.

Labor

Principle 3

Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;

Principle 4

the elimination of all forms of forced and compulsory labor;

Principle 5

the effective abolition of child labor; and

Principle 6

elimination of discrimination in respect of employment and occupation.

Environment

Principle 7

Businesses should support a precautionary approach to environmental challenges;

Principle 8

undertake initiatives to promote greater environmental responsibility, and

Principle 9

encourage the development and diffusion of environmentally friendly technologies.

Corruption

Principle 10

Business should work against corruption in all its forms, including extortion and bribery.

The Global Compact was designed as a voluntary initiative. A company subscribing to the Principles is invited to make a clear statement of support and must include some reference in its annual report or other public documents on the progress it is making on internalizing the Principles within its operations. The company must also submit a brief description of this report to the Global Compact website. Failure to submit such a description within two years of becoming a signatory to the Compact (and subsequently every two years) will result in being removed from the list of participants. The intention is that, through leading by the power of good example, member companies will set a high moral tone operating throughout the world. The overall thrust of the Global Compact is to accent the moral purpose of business and is summarized well by Kofi Annan in a quote that appears in the promotional brochure:

Let us choose to unite the power of markets with the authority of universal ideals.
Let us choose to reconcile the creative forces of private entrepreneurship with
the needs of the disadvantaged and the requirements of future generations.²

One dimension of the Global Compact is to develop local networks, that is, groups of companies, NGOs and other key actors, in a region, a country or industrial sector. Through such networks—and there are over forty of them in operation in late 2004—multinational companies and organizations involved in the Global Compact at the international level have the opportunity to engage and to discuss issues at the regional level. Having agreed to be guided by the ten principles, the companies have an opportunity to explore what these principles might mean in a specific context. For example, the local network in South Africa is planning projects on black economic empowerment and HIV/AIDS, crucial issues for that region.

While there has been an enthusiastic reception to the Compact, with over 1,100 companies signing throughout the world and many of the most influential companies from Europe joining, U.S. businesses, for the most part, have not signed on.³ In fact, only six of the major U.S. companies joined as of June 2004. Still, there are already some important signs of progress on the global level with the Compact. Two significant case studies have been produced, one on Novartis which shows how the company integrated the principles into its strategic planning process and another on Samarco's oil recycling program to reduce environmental damage from the fishing industry. Several global meetings have been held, one on Conflict Risk Assessment and Risk Management, and another on HIV/AIDS in the workplace. An important policy paper on Transparency has resulted from meetings as well as initiatives to increase sustainable business development in Least Developed Countries. Over 100 examples of good corporate practice are discussed on the Compact website as well as all the projects indicated above.

Accountability: The Crucial Issue

U.S. company reluctance to join the Compact centers on the accountability issue. In an environment of increasing skepticism, without a traditional accountability structure or monitoring as part of the Global Compact, its legitimacy will be in question. There are two categories of critics and both need to be addressed. Some scholars who have contributed important research on codes of conduct see the Compact as another code without accountability, a public relations document without substance. How does one know that a business that claims to be following the principles of the Global Compact is actually doing so? Code scholars argue that an independent group of monitors with quantifiable and objective measures that translate general principles into operating standards is the way to assure that companies are accountable. Without this objectivity, precision and transparency, these “code critics” will find little that is helpful in the Compact. Prakash Sethi, perhaps the code scholar most critical of the Compact, makes these points as well. As discussed below (cf. Accountability and Code Scholars), I argue that such critics assume that the Compact is something that it is not, a code, and that they miss the role envisioned for the Compact by Kofi Annan.

More fundamental criticism comes from NGOs and others critical of the globalization of the economy. They view the Compact as a cover story, giving legitimacy to an idea which has yet to prove itself. This group argues for a mandatory legal framework as the only way to guarantee that companies are accountable to the least advantaged in the global economy.

Given this environment, many businesses ask whether signing the Compact will be more trouble than its worth. Further, should a comprehensive accountability structure be developed, will the loss of discretionary power, time and resources—what economists call transaction costs—be prohibitive?

An additional difficulty with the accountability issue, underscored by both schools of critics, is the elusive nature of the Global Compact's principles on human rights. Can we develop a consensus that captures the legitimate expectations of society in this area? While the companies are in broad agreement with the human rights principles of the Global Compact, there is some apprehension that joining the Compact could lead to societal expectations that companies routinely have the obligation of correcting rights abuses. Where and how do we draw the line on obligations of business in the area of human rights? While at least some leading multinational companies understand that they must become proactive and meet societal expectations in a global economy, there is also a growing awareness that these expectations in the area of human rights are often unclear. In the litigious environment of the U.S., companies have been reluctant to sign the Compact without a clear idea of their responsibility and accountability. What follows is a clarification of the accountability issue drawing on literature in the business ethics field which may encourage companies to rethink their reluctance to join the Compact.

Before proceeding, however, it is interesting to note some of the reasons the European companies have not shared, for the most part, in the U.S. reluctance to join the Compact. To have a sense of the problem here, in 2004, one hundred and ninety-two of the "Fortune Global 500" (which is the top five hundred corporations in the world in terms of revenues) are U.S. companies and only six (3.1 percent) have joined the Global Compact. One hundred and sixty-three of these companies are based in Europe and of these, sixty-four (40 percent) have joined the Compact. According to Georg Kell, the Executive Director of the UN Global Compact, European companies have not been deterred from joining either because their government regulatory environment has already mandated the substance of the Global Compact, or because they operate in a less litigious and adversarial context. A 2004 assessment of the impact of the Global Compact by McKinsey and Company, in addition to the point on fear of litigation, also cited two other concerns of U.S. companies: the implications of labor rights of the Compact; and the value of associating with a UN endeavor. European signatories are not overly concerned that corporate critics will use the Compact as a weapon in a struggle. This observation is similar to that of a study of various country codes of conduct employed during the apartheid era in South Africa where it was found that there was much less pressure on companies from NGOs and others for accountability in Europe than in the U.S. This was the case even when European companies were doing much less in the way of monitoring and verifying their attempts to dismantle apartheid than their U.S. counterparts who were participating in the Sullivan Principles and its accountability structure.⁴

Accountability and the Globalization Critics

An important group of critics do not believe that economic globalization, as it is presently conceived, will ever bring authentic development to the poor, even if the principles of the Compact were implemented. Accountability for this sort of critic would involve carefully assessing whether the poor and developing nations are indeed better off with economic globalization. They are angry that Kofi Annan with his Global Compact and its voluntary nature has assumed the answer. In the final analysis, this school of thought sees the only answer to the plight of the poor as a radical change, “a binding legal framework for the transnational behavior of business in the human rights, environmental and labor realms.”⁵

A July 20, 2000, letter from prominent scholars and NGO leaders to UN Secretary General Kofi Annan summarizes this objection.

We recognize that corporate-driven globalization has significant support among governments and business. However, that support is far from universal. Your support for this ideology, as official UN policy, has the effect of delegitimizing the work and aspirations of those sectors that believe that an unregulated market is incompatible with equity and environmental sustainability. . . . Many do not agree with the assumption of the Global Compact that globalization in its current form can be made sustainable and equitable, even if accompanied by the implementation of standards for human rights, labor, and the environment. . . . We are well aware that many corporations would like nothing better than to wrap themselves in the flag of the United Nations in order to “bluewash” their public image, while at the same time avoiding significant changes to their behavior. . . . Without monitoring, the public will be no better able to assess the behavior, as opposed to the rhetoric, of corporations.⁶

It is well beyond the bounds of this study to make some final judgment on the merits of the contemporary practice of economic globalization, but I do submit that there is a convergence in the vision of the globalization critics and the Compact. Both are trying to retrieve the notion that there is a moral purpose of business and not only in wealth creation but also in its distribution.

Perhaps the moral philosopher who has developed the intellectual underpinnings for the most demanding vision of the moral purpose of business is Alasdair MacIntyre.⁷ Will the higher standards of living, if they ever come to poor countries, in fact, lead to a better quality of life? MacIntyre, in the face of a globalized economy he characterizes as marked by individualism and acquisitiveness, opts for an economic community where the virtues of character essential for the good life can flourish. He uses the example of two fishing communities, one characterized by a single-minded quest for profits and the other by a wider range of objectives including sustainability, community preservation, and promoting excellence in the task of fishing.⁸ It is helpful to focus on the convergence in the views of MacIntyre and Annan in that both are trying to retrieve the notion of the moral purpose of business.

One way to view the Compact is as an attempt to revive the moral underpinnings of the economy that were assumed by Adam Smith. While many would characterize the world view of MacIntyre’s first fishing village as that of Adam Smith (1723–1790), I

join those who have another interpretation.⁹ In *The Wealth of Nations*, Smith sought to understand why some nations were wealthier than others. Part of his answer was that nations that encouraged free competitive markets were wealthier. In a curious kind of way, in the context of the economy, when *each person pursues his or her self-interest the common good is enhanced* and all are wealthier. Given competition, the baker bakes the very best bread possible and sells it at the lowest price feasible so that he will have the resources to buy what he wants. Although motivated by self-interest, the result is that the community has good bread at a reasonable cost. Thus Smith showed how economic self-interest was beneficial for the community.

In my view, however, the crucial point in Smith's analysis is his assumption in *An Inquiry* that is quite explicit in his *The Theory of Moral Sentiments*: The "self-interest" of business people would be shaped by moral forces in the community so that self-interest would not always degenerate into greed and selfishness. Wealth creation enabled and sustained a humane community when it was practiced by virtuous people.

The Compact is not going to shape global business to be like MacIntyre's ideal fishing community any time soon. My argument is that Smith assumed that an acquisitive economy existed in the context of a moral community that would ensure that single-minded focus on making money would not perdure. Yet it is precisely this challenge of fostering the growth of humane values in the *global* society, a challenge heretofore managed by nation states for their own domestic situation, that marks the unique mission of the Global Compact.¹⁰ The argument made by Global Compact officials is that unless the moral purpose of business is retrieved, economic globalization is doomed to failure.

It is precisely because a backlash to globalization would represent a historically unmatched threat to economic prosperity and peace that the Global Compact urges international business leaders to take reasonable steps to secure the emerging values of global civil society in exchange for a commitment on the part of the United Nations to market openness.¹¹

Globalization critics see little value in the Compact unless "the emerging values of global civil society" are somehow mandated by a world-wide legal framework. The Compact, seeing little prospect for world-wide legal statutes, advances a vision of the moral purpose of business that relies on transparency and the interest companies have in maintaining their good reputation as the ultimate sanction.

There is a growing awareness by multinational companies that global business is only possible in a world where basic ethical principles are assumed. Some evidence for this moral sensitivity of multinational companies is seen in the formation of the Caux Principles, a set of moral ideals not too unlike the Compact subscribed to by a number of prominent global companies. Founded in 1986, the Caux Principles do not have the visibility, global reach and convening power with many stakeholders that accrue under the umbrella of the United Nations, but they do represent a significant attempt by companies to accent the moral purpose of business.¹² Largely because of the UN sponsorship, I argue that the Compact has the potential to be a more effective vehicle than Caux has been.

The moral context assumed by Adam Smith in his *Wealth of Nations* and made more explicit in *The Theory of Moral Sentiments* is retrieved with the notion of a Global

Compact. Without the values embedded in the Compact, for example, trust, fairness, integrity and respect for people, global capitalism would neither be effective nor considered legitimate for long. In my view, Smith offers two sorts of justification for doing the right thing. In the *Wealth of Nations*, a utilitarian moral logic is the primary justification, whereas in *Moral Sentiments*, one does the right thing because it is the right thing to do. Both of these types of justifications are assumed by the Compact. Principles concerning the environment and safety in the workplace, for example, are justified by the first sort, while the Principles concerning human rights are largely matters justified by the second type. The Compact brings to the fore that business has a moral purpose and this is highlighted by the quote from Kofi Annan cited above where he refers to business's role concerning "the needs of the disadvantaged and the requirements of future generations."

To be sure, the Global Compact of today is a far cry from a force that might shape significant changes in the moral values of the global community. Yet one has to start somewhere and the authors of the Compact envision it as an incremental process of learning and improvement, rooted in local networks sharing the same universal values, that is now only at the starting gate. Not too unlike the Reverend Leon Sullivan's famous Sullivan Principles, the initial programs are only the seeds of the many flowers to bloom in the future.¹³ One key difference of the Global Compact from the Sullivan Principles is that the moral leadership for moving the process along will not come from one charismatic leader (Sullivan) but rather from a coalition of major firms, NGOs and other members of civil society under the leadership of the UN Secretary-General which sees the value of the moral purpose of business.

Of course, one premise of the Compact is that there will always be NGOs, activists, social investors and others who will be on the scene to pressure firms and the Global Compact to be better corporate citizens.¹⁴ There is a growing realization that non-governmental organizations (NGOs) or organizations of civil society play an important role in such a dialogue, for their focus is properly the common good—the culture of civility, health, environmental protection, and so on. This is certainly not to say that NGOs are always above reproach for they too need accountability structures. In economic terms, NGOs focus on overcoming the negative externalities of business. Already major NGOs, including Amnesty International, Oxfam, Human Rights Watch, World Conservation Union, World Wildlife Fund, and Transparency International have joined and are participating in the deliberations of the Compact. The International Confederation of Free Trade Unions, Business Associations, and Academic and Public Policy Institutions have joined as well.

Thus while I understand that globalization critics, such as those who signed the letter cited above (cf. endnotes 5 and 6), ultimately believe that some sort of international law is the only way to hold firms accountable for their moral purpose, I have argued that, in this far from perfect world, a very good vehicle to retrieve the moral purpose of business is the Global Compact. For their part, multinational companies should view Compact deliberations with NGOs and others as potentially a significant contribution to the shaping of societal expectations for business. For this reason alone they should join the Compact.

Accountability and Code Scholars

The great majority of scholars and activists in business related fields who have studied codes of conduct argue for accountability structures primarily to engender trust in an increasingly skeptical public. In an exhaustive study of what could be learned from the Sullivan Principles in South Africa for global codes today, one key finding was that “an independent oversight monitoring function is an absolute necessity.”¹⁵ This lack of an independent monitoring provision is the most significant criticism of the Compact. Given the current structure of the Compact, it is quite possible for a company with a poor record in labor or the environment to highlight another area of corporate citizenship in its annual report where its record is superlative. The general public will only have the knowledge about a company that the company chooses to report. Granted the Global Compact’s network structure is designed to enhance corporate learning through “best practices” and other measures, critics continue to call for some performance standards and verification procedures. Prakash Sethi writes: “The Global Compact . . . provides a venue for opportunistic companies to make grandiose statements of corporate citizenship without worrying about being called to account for their actions.”¹⁶ Compact officials respond that this criticism misses the point. “The Global Compact is not designed as a code of conduct. Rather it is a means to serve as a (frame) of reference to stimulate best practices and to bring about convergence around universally shared values.”¹⁷ At this stage, the goal is to gain consensus on the moral purpose of business and to include the substance of the principles as a part of business strategy and operations. Since companies will include a discussion of their Compact-related activities in their annual reports, the power of public transparency and the watchdog role of the media and NGOs serves as an accountability structure. What Compact advocates have in mind is that when actual business practice falls short of ethical standards, public criticism is a good corrective. For example, Lynn Sharp Paine, in an insightful study of the merging of social and financial imperatives, discusses how Royal Dutch/Shell made a major change in policy and practice after strident criticism of its activities in Nigeria.¹⁸ Although Shell has had serious problems in 2004 with top management overstating oil reserves, the company is still considered by many to be a leader in promoting and protecting the rights of workers and communities. Yet even with this role of the press and activist groups, while the Compact is a noble endeavor, unless the participating companies are involved in some sort of independent monitoring and verification system, corporate critics (even those in the moderate camp) may never acknowledge its legitimacy.

Some critics point out that the Compact may be the victim of “adverse selection,” that is, the companies most eager to join are those tainted by bad press and in need of a good public image. Needless to say, should this be a valid criticism, the most highly regarded companies may shun the Compact. Called “bluewash” by some, the critique argues that the UN is being used by companies to overcome a poor track record on social issues, for example, bad press because of sweatshops or low wage rates. Critics often cite Nike, a signer of the Compact, as an example of adverse selection. In all fairness, it must be said that after severe criticism by NGOs, Nike is now thought by many to be a model corporate citizen as far as assuming responsibility for working

conditions in suppliers' plants. The typical position in the past was that, since multinational companies did not own suppliers' factories, they were not responsible for them. Aurret van Heerden, the executive director of the Fair Labor Association (FLA), an NGO that monitors working conditions in the apparel industry, was recently quoted on Nike in the *Los Angeles Times*: "A company like Nike has moved way beyond that and has agreed that even though it doesn't own the factories, it will be responsible for conditions in any supplier's plant."¹⁹

Scanning the list of current signatories, adverse selection does not appear to be a problem at this time. For example, Compact member companies not based in the U.S. include five of the top ten Fortune Most Admired Companies (outside the U.S.): BMW, Nokia, Nestlé, BP and Royal Dutch/Shell Group.²⁰

Compact officials note that their endeavor is incremental and will evolve as the need arises and as the companies perceive the need for change.²¹ As noted above, the requirement for some accountability structures is a need that almost all observers have identified. Just as accountability structures in quality management (ISO quality standards) have become a business imperative today, largely through pressures from competitors, consumers and the media, so too can they in the area of corporate responsibility.²²

Perhaps the best hope for transparency and accountability standards is the reporting mechanisms that would enable verification and monitoring being developed by the Global Reporting Initiative (GRI). The GRI grew out of the work of the Coalition for Environmentally Responsible Economics (CERES). Originally the CERES Principles were concerned only with environmental reporting and, in its early days in the late 1980s, only small firms with intense interest in the environment were willing to join and publicly report in standard metrics. In recent years, most major firms have published reports which disclose and measure their environmental record using the standard metrics of CERES. This led to a call to develop comparable reporting mechanisms for the economic and social areas and thus the founding of the GRI by CERES.²³ Sometimes called the triple bottom line (economic, environmental and social), or sustainability reporting, the attempt to disclose and measure the full impact of a business is the ongoing project of the GRI. At present, the Global Compact encourages signatory companies to participate in the GRI but does not require it.

The most recent GRI Sustainability Reporting Guidelines (2002) presents a framework indicating what should be in a good company report. While the Guidelines are a good start, they are still far from adequate. For example, they include fifty core indicators of quality yet sixteen of these indicators focus on whether the company has a policy or process that deals with an issue and not on how the company is performing on that issue. A policy on child labor or downsizing tells little about how the company performed in that area.²⁴ Tracking a company on certain issues from year to year requires some performance metrics that all can understand. While the indicators in the environmental area are clear and useful to stakeholders, the social reporting indicators are only in their infant stages and much more dialogue and consensus building is required. That being said, it should be noted that the GRI has always had a social performance indicator on bribery and corruption, which, until June 2004, was a glaring omission in the Compact.

While the Global Compact has no required standard reporting provision at this time, it does encourage signatory companies to use the GRI. In fact, it will likely be increasingly clear that for the Global Compact to be a significant force, either the Global Reporting Initiative or something similar to it will be a necessary complement. Nevertheless, the independent monitoring and verification feature will probably never be a task of the Compact itself. Further, Compact officials do not believe such a role to be part of the UN mandate. Imagine a group like the Rotary Club that forms a community, promulgates moral ideals and encourages people to formulate a life-plan based on such a vision. Although this organization may expel members who flagrantly and publicly violate core moral ideals, it does not itself police, enforce, or measure how well individuals do. This self-understanding is an approximation to that of the Global Compact; as prescribed in the “Global Compact Integrity Measures” (see website), the Compact can expel members for egregious violations but it does not have a regular monitoring and verification feature.

Accountability and Gaining Consensus: The Two-Tier Pricing System

There are a number of issues where there is little consensus on how to justify the apportioning of responsibility, particularly in the area of the environment and human rights. One example concerning the pharmaceutical industry meeting human rights may illustrate the role of ethical research in helping to gain consensus and shaping societal expectations. This example and the pages that follow are presented more to stimulate further thought and research rather than to provide a final answer, for the whole pricing structure of the pharmaceutical industry needs further understanding and analysis. Until this happens, there is little prospect that the Global Reporting Initiative will develop a comprehensive, standard metric responding to the right of health care and treatment built on societal consensus. Yet policies are being made in apportioning responsibility for health care, and normative theory can help in understanding them and formulating better ones.

One policy the pharmaceutical industry has produced to allow the poor in developing countries the possibility of affording life-saving drugs is a two-tier pricing system, that charges considerably more in affluent countries and thus covers the cost of current research for future products. This policy has caused no small controversy, particularly in the United States. There is considerable ethics research, however, which can provide a normative framework for this policy. For example, one might argue the case from a common good, a justice, or a rights perspective.²⁵

One normative theory, which holds promise for clarifying and providing an ethical justification for a two-tier pricing system, is integrative social contract theory (ISCT). In ISCT, the most basic principles summarizing a broad consensus about behavioral norms are called “substantive hypernorms,” principles “so fundamental to human existence” that they are found in “a convergence of religious, political and philosophic thought.”²⁶

The case of apartheid in South Africa may be helpful to illustrate briefly the justificatory and explanatory role of ISCT. In South Africa up to the late 1980s, the rules that governed the society as well as individual firms (rules called social contracts or microsocal contracts in ISCT) assumed the black people should not have full political and civil rights. While social contracts do not have to be the same in all nations, companies, or groups—for there is a wide range of “moral free space”—all micronorms must be consistent with hypernorms in order to carry objective moral weight. Thus the apartheid laws and company policies, which denied people political and civil rights on the basis of skin color and race, were “illegitimate” micronorms. Although the apartheid policies were based on mutual consent of the voters (who were only of the white race), and reflected in both their attitudes and actions, since these micronorms violated basic human rights (hypernorms), the country as well as the companies participating in apartheid policies were considered immoral.²⁷

In brief, ethical obligations are recognized where there is consent in the local community as well as consent by “all rational contractors to a theoretical macro-social contract.” While the local community of white Africaners saw no problem with a norm specifying racial hierarchy (apartheid) in South Africa, the world community saw that norm as “illegitimate,” a violation of basic human rights and universal truths (hypernorms). Finally, following much protest from around the world, the relevant ethical obligation was made operational. After 1984 human rights were factored into business decisions of multinationals in South Africa. And in 1994 statutory apartheid was dismantled with the first election where all could vote.

ISCT can provide a justification for the two-tier pricing system and for other policies that provide lower prices or commercial concessions for poor countries and the Global Compact can facilitate the process of developing appropriate norms. One way to understand the ten principles of the Global Compact, then, is as an expression of either norms and hypernorms (fairness, respect for other people and integrity) or principles derived from hypernorms (workplace safety and discrimination). With its emphasis on local networks, the Compact encourages regions, nations and individual firms to develop the norms appropriate to implement the nine principles as long as these norms do not violate a hypernorm. Thus, for example, the pharmaceutical industry’s pricing policy for life-saving drugs may be guided by a norm in developed countries which sanctions prices that include a significant amount that will be allocated for research costs for future products. While this norm will result in higher costs for patients, the assumption is that there is little prospect that a patient’s right to health care will suffer since there are government social safety nets and other measures to assist the poor in affluent countries. (To be sure, this assumption itself needs further study and action). In developing countries with weak governments and meager background institutions to assist, this same norm for a pricing policy would be illegitimate since it would likely mean no medicines for those in need and thus a violation of rights. While it is always difficult for consumers in affluent countries to understand how the same drug manufactured by the same pharmaceutical company can be sold much cheaper in poor countries, ISCT provides a helpful normative framework.²⁸

*Accountability As A Moving Target:
For What Societal Expectations Are Multinationals Accountable?*

A recent article on the HIV/AIDS pandemic in sub-Saharan Africa spoke of an activist who “unleashed a verbal broadside against the pharmaceutical companies, and their refusal to provide drugs at cost or, even better, no cost at all.” Another article spoke of pharmaceutical companies being “threatened by the National Association of People Living with AIDS if the firms continued to refuse to provide antiretroviral drugs free of charge.”²⁹ Needless to say, the multinationals are aghast at such proposals (there are thirty million people in the area with the disease and, for the most part, those persons have never seen a doctor or been in a clinic). In the face of weak and inadequate governments, NGOs and other civil society actors are increasingly pressuring multinational corporations to accept new social responsibilities to balance their newly acquired rights and power in the global community. In my view, what is going on in the pharmaceutical industry is only a dramatic, early warning signal of a rethinking and widening of the role of all of business in society and hence it is a helpful case study to consider. The question that comes to the fore is for what societal expectations are multinationals accountable?

The companies are in a difficult position summed up by one pharmaceutical company officer: “We take accountability for our obligations seriously.” What the companies want to know is how to gain a consensus in society of what these obligations are. “The Universal Declaration of Human Rights (UDHR) and article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) are interpreted by some as embodying a right to essential medicines. Are pharmaceuticals private goods to be obtained through the market, or public goods to which all citizens have a right?”³⁰ Do multinational pharmaceuticals have a moral obligation to satisfy this right for the poor in developing countries?

Drawing on research on human rights, including issues raised in Henry Shue’s work, the Economic and Social Council of the United Nations, in 2000, stated that “Health is a fundamental human right indispensable for the exercise of other human rights.” It based this right on the human dignity of the person.³¹ The interdependent nature of basic rights is reflected in the fact that a certain minimum standard of health is required to enjoy other fundamental rights, such as freedom and equality. The right to health implies the right to access to what it takes to provide that health—care and treatment (since the right to *health* may imply that others have the obligation to see that one never gets ill, I use the right to *health care* and *treatment* to avoid any misunderstanding). This would likely include doctors, nurses, essential medicines, and facilities. Indirectly, good health also requires provision for basic conditions such as nutritional food, safe water, sanitation, preventative medicine and relevant education. While the document calls for “the highest attainable standard of health,” it recognizes that economic and social factors play a role in determining what is attainable in a particular society. Thus in the poorest countries extremely expensive medicines cannot be guaranteed by the government or multinationals although wealthy nations would have a duty to try to assist.

While there is a relatively good consensus about the right to health care and treatment, there is disagreement about how to fairly apportion these responsibilities, especially in developing countries. Where does one draw the line in assigning obligations to a multinational business? Is it the moral responsibility of the multinational to distribute society's scarce resources, to feed the poor, to provide health care? If that be the current societal expectation, should it be honored? This is a concern to some of those U.S. companies which have not joined the Global Compact. In the U.S. context where litigiousness is a fact of life, the fear of some U.S. companies is that the Compact may well be considered a contract by some stakeholders and that they may be subject to law suits.

A recent California court decision allowed an activist to sue if a company falsely colors its social image. The California Supreme Court on May 2, 2002, in *Marc Kasky vs Nike*, held that claims about safe working conditions are "commercial speech" and must be defended in court if challenged. Nike asked the U.S. Supreme Court to review the ruling and, after hearing oral arguments, the high court refused and sent the matter back to California for a final determination. In September 2003, Kasky and Nike agreed to a settlement, Kasky withdrawing his lawsuit and Nike agreeing to pay \$1.5 million to the Fair Labor Association (FLA), a monitoring group that strives to improve factory conditions. While the settlement essentially means that the merits of the Kasky (and Nike) positions remain untested, the very fact that a similar suit may be brought forward in other cases may offer significant leverage to activists monitoring business theoretic and corporate actions. (For the court decision, see www.courtinfo.ca.gov/opinions). While for some companies this case may reinforce their reluctance to join the Global Compact, this is overly cautious. This is certainly the judgment of the American Bar Association which, in 2004, drafted a standard entry letter which companies joining the Compact can use to preclude subsequent litigious claims. I side with major companies like Hewlett Packard, Pfizer, Cisco Systems, Starbucks Coffee, and DuPont who have reviewed the issues and decided that signing the Compact is not only in the best interest of the company but also the global community. Their course of action is the one that others should follow.

Scholars have argued that, although multinational companies do have a responsibility to honor human rights, they do not have an obligation to aid those deprived of life-saving resources, i.e., to provide medicines for the sick or food for the hungry. They may want to do those things when feasible but, under normal circumstances, these activities should not be considered as a part of business. Donaldson, following Henry Shue, makes helpful distinctions in the classes of the rights honoring duties: Three classes of duties are:

1. Refraining from depriving people of the object of a right.
2. Protecting (in some instances) the right from being deprived.
3. Restoring to people whose rights have been violated the object of the right.³²

Thus while a company must never take medicines from the diseased (class number 1); and it may often protect people from being diseased (class number 2); it does not have an obligation to provide medicines to the diseased (class number 3).

There is clearly a compelling logic to this position which may be summarized as follows. While multinational corporations should and do assume extraordinary social responsibilities and corporate citizenship duties in developing countries, there is a limit to business's role in society. Individuals (especially wealthy individuals) and nations can and should help provide medicines to all who need them, limited only by their capability. For-profit corporations should see their primary duty as providing good products at a fair price in the context of listening to their many stakeholders. If a pharmaceutical company, for example, depleted its revenue in the process of providing antiretroviral medicines and developing medical clinics for the poor of sub-Saharan Africa, it could not generate the money necessary for research for a cure for HIV/AIDS.³³ Consumers would ultimately pay either by much higher prices or by no new, innovative products or cures (assuming the company survived). To assign the pharmaceutical business the *obligation* of aiding those deprived of antiretroviral medicines and care would undermine the genius of the free enterprise system.

In spite of the compelling logic of the above position, there is growing realization that with the huge aggregates of money and power under the control of multinational businesses, these organizations *do have moral obligations* as corporate citizens in the global community to assume some responsibility for providing medicines. The very title of the UN program, the Global Compact, points us to the basis of these obligations. All organizations producing goods and services have an implied contract with society. Similar to the argument for the moral and political foundations of the state advanced by Locke, Rousseau, and Hobbes, this approach argues that companies have a duty to be social responsible and this involves honoring human rights.³⁴ That being said, the theory does not spell out just what responsibilities are appropriate for multinationals.

Michael A. Santoro, in discussing the duties of multinational firms in the face of human rights violations in China, offers a conceptual framework to assist in the analysis and clarification of the situation. Called a "fair share" theory of human rights, Santoro points us to four factors: "the diversity of actors, the diversity of duties; an allocation of duties among various actors; and principles for a fair allocation."³⁵ In any human rights problem, there are a number of possible actors, for example, international institutions, nation-states, multinational firms, NGOs and individuals, and each should be allocated a fair share of the duties. The principles proposed for a fair allocation of duties are: relationship to those whose rights are violated; the likely effectiveness of the agent in remedying the problem; and the capacity of the agent. Santoro's point is that while companies must do something, they should not be asked to do "more" than they are capable of doing effectively.³⁶

Many of our best companies have formulated a philosophy of corporate citizenship and have taken steps to institutionalize this philosophy in their corporate culture. U.S. companies involved with producing antiretroviral medications include Abbott, Bristol-Myers Squibb, and Merck. Each of these have initiated programs to deliver better health care and treatment, in some limited way, to those suffering HIV/AIDS. I believe these companies correctly perceive that they must do these activities as a matter of moral obligation as corporate citizens and not merely as a matter of philanthropy

or as a public relations gesture. From my discussions with some of the companies, I believe they are employing allocation principles similar to Santoro's, largely effectiveness and capacity, and thus are trying to meet the morally required minimum.

The kind of moral leadership exemplified in Merck's Botswana Comprehensive HIV/AIDS Partnership may set a standard of how corporate citizenship can contribute to solving the pandemic. Botswana, with a population of 1.6 million people, has an HIV prevalence rate of 38.5 percent among those in the 15–49 age group. While having the political will to solve the health crisis, the government felt overwhelmed, not only because of the cost involved but also because they lacked the expertise. A partnership was formed with the government of Botswana, Merck and the Bill and Milanda Gates Foundation with the overall objective of improving the care and treatment of HIV/AIDS patients. Merck is donating medicines and financial assistance. Gates and Merck are each contributing fifty million dollars over five years and the government will assist in training health care professionals to ensure that antiretrovirals are used safely and effectively. The program is led by the former CEO of the South African unit of Merck. A Harvard Business School case has been written about the partnership and this model may hold much promise for replication in other developing nations suffering from a health crises.³⁷

Some other examples of what the companies are doing may also offer models for the future. The UN/Industry Accelerating Access Initiative (AAI) is a cooperative endeavor among UNAIDS, WHO, the World Bank, UNICEF, the UN Population Fund and six pharmaceutical companies (Abbott, Boehringer Ingelheim, Bristol-Myers Squibb, GlaxoSmithKline, F. Hoffman-LaRoche, and Merck) to provide, among other things, antiretroviral medicines at more affordable prices. In addition to the AAI program, three other initiatives designed to improve access to HIV/AIDS medicines in the developing world are worthy of note: 1. *Secure the Future* is a five-year program where Bristol-Myers Squibb is contributing \$115 million and working with South Africa, Botswana, Namibia, Lesotho and Swaziland to find ways managing HIV/AIDS among women and children; 2. *Diflucan Partnership Program* is a program where Pfizer pays for medical training, patient education and Diflucan for AIDS patients in 70 least developed countries; and 3. *Viramune Donation Program* involves Boehringer Ingelheim's donation to pregnant women with AIDS in developing countries of medicines to prevent mother-to-child transmission.

It is instructive to note that while these companies are striving to meet moral responsibility, only one (Pfizer) has joined the Compact. One explanation for this reluctance to join, as discussed above, is that given that there is not a clear consensus on what is the moral responsibility of a multinational pharmaceutical company in meeting the needs of the poor, joining the Compact would expose them to added criticism and perhaps even legal action from critics.

Research-based pharmaceutical companies' contributions and donations for HIV/AIDS and other diseases between 1998–2000 amounted to US \$1.9 billion. To be sure, critics of the pharmaceutical industry claim that companies relax intellectual property rights and "lower their prices only when threatened."³⁸ Although the critics may have a point and further study in this area is surely warranted, the companies

are, in fact, providing an answer to those societal expectations for which they believe they are capable of being held accountable.

Some companies active in sub-Saharan Africa, e.g., Coca-Cola, DeBeers, BP, and Anglo-American, have decided that they can provide antiretroviral medicines and care for their employees and their spouses with HIV/AIDS.³⁹ Pharmaceutical companies with antiretroviral medicines have initiated a whole series of programs to lower prices and deliver care for countries listed low or medium on the Human Development Index (HDI).⁴⁰ Again, the point of listing these company initiatives is not to foreclose criticism of the companies but rather to argue that companies with the resources can and must do something as a matter of moral obligation as good corporate citizens.

How much must they do? It is in the context of this question that companies are well advised to look to the Global Compact to help in the "recalibration going on of the public-private sector balance."⁴¹ As said earlier, because the Compact has the visibility, global reach and the convening power that accrue to it as an instrument of the UN, it is likely to be more effective than other global credos with similar missions. Since the Compact is based on principles that were accepted by most governments of the world, it offers a vision of the global community accepted by all nations. To be sure, the UN principles are ideals which are far from realized and may not even be honored in some places, but one has to start somewhere. The unique feature is that the private sector is now being asked to be the agency which closes the gap between vision and reality, to be the standard bearer for promoting community norms and to help shape the legitimate expectations of society. Even more than that, through the dynamic process of the Compact, new norms may be generated. Many U.S. companies have not joined the Compact because, given the litigious climate, they are apprehensive about growing societal expectations that companies routinely have the obligation of meeting basic human rights when nation-states cannot. Yet, as emphasized above, given the UN's role in the global community, it is in the forum of the Compact that this discussion can most effectively take place.

Conclusion

While it is true that, at present, the Global Compact lacks adequate accountability structures, since it is a dynamic process open to incremental change, given intelligent and persistent criticism, there is bound to be progress in this area. The best hope for accountability without undue transaction costs is the effort currently underway by the Global Reporting Initiative. The Compact has supported this endeavor. If the Global Compact does not succeed in developing adequate reporting procedures and meeting the legitimate concern of giving globalization a human face, some other world-wide policy forum will have to rise to the challenge. U.S. companies would be well advised to join the Compact and help shape its future.

As to the potential obligations that trouble U.S. business, current issues in the pharmaceutical industry are a helpful case study. Most scholars argue that the right to medicines and care is a moral right but there is little consensus on how best to apportion the duties to meet this right. There is a growing consensus that with the

large aggregates of money and power, multinationals have moral obligations as corporate citizens to assist the poor in the global community, but the extent of these obligations is unclear. The Global Compact offers a forum under the umbrella of the United Nations with its visibility, global reach and convening power where some of the best members of civil society—non-government organizations, academic and public policy institutions, individual companies, business associations and labor representatives—can come together to discuss the changing role of business and its moral purpose. U.S. companies as well as those throughout the world are well advised to join the Global Compact and contribute to the shaping of these new expectations of business in society.

Notes

¹ Kofi Annan, “Business and the UN: A Global Compact of Shared Values and Principles,” 31 January 1999, World Economic Forum, Davos, Switzerland, Reprinted in *Vital Speeches of the Day* 65(9) (15 February 1999): 260–61. See also Sandrine Tester and Georg Kell, *The United Nations and Business* (New York: St. Martin’s Press, 2000), 51. Georg Kell is Senior Officer, Executive Office of the Secretary General and Director of the United Nations Global Compact Office.

² See the Global Compact website at www.unglobalcompact.org for the principles, a comprehensive discussion of the organization and Kofi Annan’s vision of the moral purpose of business.

³ Of the sixty-four U.S. companies that have joined the Compact, most are small and medium-sized firms. Major U.S. multinationals signing include Amerade Hess, Cisco Systems, DuPont, Hewlett-Packard, Starbucks Coffee, and Pfizer. Virtually all industry sectors on every continent are represented in the over 1180 signatories world-wide.

⁴ For information on the Global 500, see the special edition of *Fortune* on “The World’s Largest Corporations,” 148(2) (2003): 42–45; F1–45. Georg Kell’s point was made in a private discussion with the author in Pretoria, South Africa, on 24 April 2000. For a discussion of the contrast between Europe and the U.S. on the South Africa case, see S. Prakash Sethi and Oliver F. Williams, *Economic Imperatives and Ethical Values in Global Business: The South African Experience and International Codes Today* (Notre Dame, Ind.: University of Notre Dame Press, 2001), 183–219.

⁵ Letter to Kofi Annan, Secretary-General, United Nations, 20 July 2000, from: Upendra Baxi, Professor of Law, University of Warwick, UK, and former Vice Chancellor University of Delhi (India); Roberto Bissio, Third World Institute (Uruguay); Thilo Bode, Executive Director, Greenpeace International (Netherlands); Walden Bello, Director, Focus on the Global South (Thailand); John Cavanach, Director, Institute for Policy Studies (U.S.); Susan George, Associate Director, Transnational Institute (Netherlands); Oliver Hoedeman, Corporate Europe Observatory (Netherlands); Joshua Karliner, Executive Director, Transnational Resources and Action Center (U.S.); Martin Khor, Director, Third World Network (Malaysia); Miloon Kothari, Coordinator International NGO Committee on Human Rights in Trade and Investment (India); Smitu Kothari, President, International Group for Grassroots Initiatives (India); Sara Larrain, Coordinator, Chile Sustentable (Chile); Jerry Mander, Director, International Forum on Globalization (U.S.); Ward Morehouse, Director, Program on Corporations, Law and Democracy (U.S.); Atila Roque, Programme Coordinator, Brazilian Institute of Economic and Social Analysis (Brazil); Elisabeth Sterken, National Director INFAC Canada/IBFAN North America; Yash Tandon, Director, International South Group Network (Zimbabwe); Vickey Tauli-Corpuz, Coordinator, Tebtebba (Indigenous Peoples’ International Centre for Policy Research and Education), and Asia Indigenous Women’s Network (Philippines); Etienne Vernet, Food and Agriculture Campaigner Ecoropa (France).

⁶ Ibid.

⁷ See Alasdair MacIntyre, "A Partial Response to My Critics," in *After MacIntyre*, ed. Charles Taylor (Oxford: Oxford University Press, 1994), 284–66.

⁸ While I find MacIntyre insightful and provocative, in the final analysis, I side with Andrew Wicks "I find enough coherence, hope, and possibility in both capitalism and 'modernity' to cast my lot with those who see the Enlightenment (and what followed) as something other than a disaster." See Andrew C. Wicks, "On MacIntyre, Modernity and the Virtues: A Response to Dobson." *Business Ethics Quarterly* 7(4) (1997): 133–35.

⁹ See Patricia H. Werhane, "Business Ethics and the Origins of Contemporary Capitalism: Economics and Ethics in the work of Adam Smith and Herbert Spencer," *Journal of Business Ethics* 24 (2000): 185–98; also Oliver F. Williams, "Catholic Social Teaching: A Communitarian Democratic Capitalism for the New World Order," *Journal of Business Ethics* 12 (1993): 919–23. The 1991 encyclical letter of Pope John Paul II, *Centesimus Annus*, makes this central point: "The economy in fact is only one aspect and one dimension of the whole of human activity. If economic life is absolutized, if the production and consumption of goods become the center of social life and society's only value, not subject to any other value, the reason is to be found not so much in the economic system itself as in the fact that the entire socio-cultural system, by ignoring the ethical and religious dimension, has been weakened, and ends by limiting itself to the production of goods and services alone." John Paul II, *Centesimus Annus* (Washington, D.C.: The US Catholic Conference, 1991), para. 39, p. 77.

¹⁰ A good overview of the issues addressed by the Global Compact was presented at the Key-note Address to the Society of Business Ethics and the Social Issues in Management Division of the Academy of Management meeting in Chicago, 7 August 1999. See Douglas Cassel, "Human Rights and Business Responsibilities in the Global Marketplace." *Business Ethics Quarterly* 11(2) (2001): 261–74.

¹¹ Tester and Kell, *The United Nations and Business*, p. 51. The case for globalization and capitalism is made in the UN's 2002 edition of the *Human Development Report* but not without many caveats. For example: "The proportion of the world's people living in extreme poverty fell from 29% in 1990 to 23% in 1999," and "During the 1990's the number of people living in extreme poverty in Sub-Saharan Africa rose from 242 million to 300 million." See the report: www.undp.org/hdr2002/.

¹² Participants in the Caux Principles have been from twenty-seven countries and include such U.S. companies as 3M International, Chevron, Time Inc., The Prudential Insurance Company of America, The Procter and Gamble Co., The Chase Manhattan Bank, Medtronic Inc., Monsanto Company, Honeywell Inc., Cargill Inc., and the Bank of America. See the website www.cauxroundtable.org. Accountability as discussed here is even less a requirement in the Caux Principles and this endeavor has much less visibility. For the text of the Caux Principles see *Global Codes of Conduct*, ed. Oliver F. Williams (Notre Dame, Ind.: University of Notre Dame Press, 2000), 384–88. For two articles on the Caux Principles, see Gerald F. Cavanagh, "Executives' Code of Business Conduct: Prospects for the Caux Principles," *Global Codes of Conduct*, pp. 169–82; and Kenneth E. Goodpaster, "The Caux Round Table Principles: Corporate Moral Reflection in a Global Business Environment," *Global Codes of Conduct*, 183–95.

¹³ For a comprehensive history and analysis of the Sullivan Principles, see S. Prakash Sethi and Oliver F. Williams, *Economic Imperatives and Ethical Values in Global Business*.

14. For an example of this countervailing power of NGOs, see the letter by Louise Frechette, Deputy Secretary-General of the United Nations, of 3 June 2003, responding to the officers of Oxfam, Amnesty International, Lawyers Committee for Human Rights, and Human Rights Watch, who are pressuring for more accountability in the Compact. See the web site www.globalpolicy.org/ngos/business/2003/0626secret.htm. For a recent, similar criticism, see "Global Compact Leaders Summit: NGO Participants Raise Concerns," 24 June 2004, <http://web.amnesty.org/pages/ec-letter-240604-eng>.

¹⁵ S. Prakash Sethi and Oliver F. Williams, "Creating and Implementing Global Codes of Conduct: An Assessment of the Sullivan Principles as a Role Model for Developing International Codes of Conduct—Lessons Learned and Unlearned." *Business and Society Review* 105(2) (2000): 187.

¹⁶ S. Prakash Sethi, "Global Compact is Another Exercise in Futility," *The Financial Express*, 8 September 2003. Available on the web at: www.financialexpress.com/fe_full_story.php?content_id=41523. For a comprehensive discussion of codes of conduct, see S. Prakash Sethi, *Setting Global Standards: Guidelines for Creating Codes of Conduct in Multinational Corporations* (New York: John Wiley & Sons, Inc., 2003).

¹⁷ Tester and Kell, *The United Nations and Business*, 53

¹⁸ Lynn Sharp Paine, *Value Shift: Why Companies Must Merge Social and Financial Imperatives to Achieve Superior Performance* (New York: McGraw-Hill, 2003), 20–23.

¹⁹ An instance of where Nike is being cited as an example of adverse selection is in the letter to Kofi Annan, Secretary-General, United Nations, 25 July 2000, from the same signatories as listed in note 5 above. For an NGO critical of the Compact, see the web site www.corpwatch.org. The quote from Aurret van Heerden is found in Lisa Giron, "Nike Settles Lawsuit Over Labor Claims," *Los Angeles Times*, 13 September 2003.

²⁰ Nicholas Stein, "America's Most Admired Companies," *Fortune* (3 March 2003): 81–94.

²¹ This point has been made repeatedly by Georg Kell in conversations with the author. For example, in light of complaints one current issue Compact officials are discussing is what business behaviors necessitate asking a company to sever its relationship with the Compact.

²² Sandra Waddock, "Creating the Tipping Point Towards Corporate Responsibility: Reflections of Meeting Expectations in the Global Economy. The UN Global Compact Conference at the University of Notre Dame, 21–23 April 2002. Unpublished paper available on the web site of the Notre Dame Center for Ethics and Religious Values in Business www.nd.edu/~ethics.

²³ Robert Kinlock Massie, "Effective Codes of Conduct: Lessons from the Sullivan and CERES Principles," in *Global Codes of Conduct*, 287–88. See the web site of the Global Reporting Initiative www.globalreporting.org. For an example of the present state of the art of sustainability reporting, see the report of the Royal Dutch Shell Group www.shell.com.

²⁴ For an analysis, see Mallen Baker, "The Global Reporting Initiative: Raising the Bar Too High?" *Ethical Corporation Magazine* (October 2002): 39–41.

²⁵ See, for example, Manuel Velasquez, "International Business, Morality and the Common Good," *Business Ethics Quarterly* 2 (1992): 27–40; Norman Bowie, "A Kantian Theory of Capitalism," *Business Ethics Quarterly*, Special Issue No. 1, (1998): 37–60; and Richard De George, *Competing with Integrity in International Business* (New York: Oxford University Press, 1993).

²⁶ Thomas Donaldson and Thomas W. Dunfee, "Toward a Unified Conception of Business Ethics: Integrative Social Contracts Theory," *Academy of Management Review* 19(2) (1994): 260. See also Thomas Donaldson and Thomas W. Dunfee, *Ties That Bind: A Social Contracts Approach To Business Ethics* (Boston: Harvard Business School Press, 1999).

²⁷ See Sethi and Williams, *Economic Imperatives and Ethical Values in Global Business*, for the history of the evolution of the conviction that participating in apartheid was immoral.

²⁸ Pharmaceutical companies were reluctant to approve the two-tiered pricing system because of the fear of "round-tripping," fraudulently selling a deeply discounted drug meant for the poor in a developing country in an affluent country at the higher price. This would seriously erode the profit margin required for research for future drugs. After considering the options, most companies have moved to two-tier pricing although it has not been without problems. See Gregory Crouch, "Europeans Investigate Resale of AIDS Drugs," *The New York Times*, 29 October 2002, W1; and "Africa's Cheap AIDS Drugs Threatened by Illegal Exports," *Business Day*, 12 May 2003, 10.

²⁹ Stephen Lewis, "Silence = Death: AIDS, Africa and Pharmaceuticals," *Toronto Globe and Mail*, 26 January 2001, 12; and "Threatened," *Johannesburg Sunday Times*, 2 April 2003, 2.

³⁰ In order to discuss the Compact with major U.S. multinationals and to increase U.S. membership, the United Nations Global Compact Office and the Center for Ethics and Religious Values in Business at the University of Notre Dame sponsored a conference at Notre Dame in April 2002. Several corporations that are already members of the Compact (Nike, Novartis, and Shell) and some considering joining (Freeport-McMoRan Copper and Gold, Hewlett-Packard, Merck, and Motorola) gave presentations. The statement summarizes the sense of some of the pharmaceutical company presentations at the Notre Dame-UN conference in April 2002.

³¹ "General Comment No. 14 on Substantive Issues Arising from the Implementation of the International Covenant of Economic, Social and Cultural Rights (ICESCR)," United Nations Economic and Social Council, 2000. Geneva. See www.unhcr.ch. See Henry Shue, *Basic Rights* (Princeton, N.J.: Princeton University Press, 1981). There is currently a UN draft "Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with regard to Human Rights, E/CN. 4/Sub. 2/2003/12 (2003)," but most believe this proposed policy needs considerable field testing before some consensus on how to apportion responsibility emerges.

³² These ideas are developed in Thomas Donaldson, *The Ethics of International Business* (New York: Oxford University Press, 1989), especially chapter 5. For a good application see Thomas Donaldson, "The Perils of Multinationals' Largess," *Business Ethics Quarterly* 4(3) (1994): 367–71. This article is a response to a critique of Donaldson in Kevin T. Jackson, "Distributive Justice and the Corporate Duty to Aid," *Journal of Business Ethics* 12 (1993): 547–51.

³³ A study released in December 2001 by the Tufts Center for the Study of Drug Development reported that the average cost of developing a new drug is \$802 million and takes, on average, twelve years. These figures are disputed by the Health Research Group, a consumer organization founded by Ralph Nader. See Robert Pear, "Research Cost For New Drugs Said to Soar," *The New York Times*, 1 December 2001, 1.

³⁴ See note 25.

³⁵ Michael A. Santoro, "Engagement with Integrity: What We Should Expect Multinational Firms to Do About Human Rights in China," *Business and the Contemporary World* 10(1) (1998): 25–54.

³⁶ *Ibid.*, p. 48.

³⁷ James E. Austin, Diana Barrey, and James B. Weber, "Merck Global Health Initiatives(B): Botswana," Number 9-301-089 (Boston: Harvard Business School Publishing, 2001). Also, the website for the African Comprehensive HIV/AIDS Partnerships (ACHAP) (www.achap.org/) has a description of the project.

³⁸ See Donald G. McNeil, Jr., "Patents or Poverty? New Debate Over Lack of AIDS Care in Africa," *The New York Times*, 5 November 2001, 6.

³⁹ The Global Business Coalition on HIV/AIDS headed by Richard Holbrooke, former U.S. Ambassador to the UN, has enlisted many multinationals in the fight against AIDS. Some companies have gone well beyond the normal role of business in society. See the web site www.businessfightsaids.org/.

⁴⁰ For example, GlaxoSmithKline cut the price of its AIDS and malaria treatments by 38 percent in the sixty-three poorest countries. "Glaxo Cuts Price of AIDS and Malaria Drugs," *Business Day*, 12 May 2003, 1.

⁴¹ John Gerard Ruggie, "Taking Embedded Liberalism Global: The Corporate Connection," unpublished paper, p. 29.