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***CORPORATE SOCIAL
RESPONSIBILITY***



Delivered By

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Special Assistant to the President of Nigeria on Federal Capital Territory Matters (May 2001-Sept 2002); Special Assistant to the President on G77 Matters and Nigerians In The Diaspora Organisation (Sept 2002-May 2003).

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Chair-Person of the West African sub-group of the Association of International Petroleum Negotiators (AIPN).

HER PUBLICATIONS

Delivered papers at domestic and international conferences on the following topics:

- 1. Investment Opportunities for Oil Service Companies in Nigeria (1996)*
- 2. Legal Aspects of International Environmental Protection (1996)*
- 3. Current Legal Issues for Gas Production and Utilisation in Nigeria (1997)*
- 4. The Office of the Company Director - Rights, Duties and Liabilities (1998)*
- 5. Corporate Social Responsibility in the Petroleum Industry (1999)*
- 6. Oil and Gas Arbitration (1999)*
- 7. Legal Framework of the Petroleum Industry (2000)*
- 8. The Nigerian Power Sector: An Industry in Transition (2001).*
- 9. Local Content-Provision of Professional Legal Services in the Petroleum Industry (2004)*
- 10. Good Governance & Africa's Development (2007)*
- 11. Corporate Social Responsibility (2008)*

AKINJIDE & CO PUBLICATIONS:

1. **Petroleum Group, Energy and Natural Resources**
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27. **Babcock University Eminent Persons Day Address**
28. **Health and the Wealth of Nations**
29. **Corporate Social Responsibility.**

CORPORATE SOCIAL RESPONSIBILITY

By
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Introduction

I would like to thank the organisers of this seminar, the Section on Energy and Natural Resources Law of the International Bar Association - of which I am a member – for inviting me to present this paper.

Due to the short notice, and mindful of the fact that this is the last session of the two day conference during which you have had the benefit of many erudite and scholarly papers, this presentation is what I will term a “vignette”. A short presentation on a subject which is increasingly emerging as one of the significant and positive products of the nineties.

As a corporate lawyer practising in the oil and gas industry, I cannot presume to set out the detailed mechanics of *how* oil and gas companies should partner the development of host communities. What I can do however, is describe the legal and social philosophy and thinking which underpin this call for partnering of host communities by the petroleum industry. A clarification and understanding of the basis on which any proposed course of action is to be undertaken in this area will aid in charting our future paths.

My aim is to discuss some of the important elements of this subject thereby provoking thought and debate which will hopefully relate corporate responsibility to the crying need for innovation in our society, and lead to development and widespread application of the principles in Nigeria.

The subject I am referring to is the concept of **Corporate Social Responsibility**. I believe this is the cutting edge of strategic thinking in the business community. Corporate responsibility is almost an inevitable result of societal evolution **Scope of Corporate Governance**.

Many of us are doubtless aware of the various strands of corporate governance that have developed and become established principles since the first joint-stock companies were formed.

Briefly they are –

1. **Financial Responsibility** – Financial corporate accountability describes the mechanisms created to ascertain corporations' actual financial position independent of corporate managements, such as, financial audits, accounting standards and principles, the listing requirements and continuing obligations of Stock Exchanges and the rules of Securities Exchange Commissions.

The purpose of corporate financial accountability is to ensure that companies function transparently, lawfully and efficiently.

2. **Economic Responsibility** – Corporations are economically responsible if they do not or are not allowed to make excessive profits at the expense of other companies and the public. Legislation and institutional rules which prevent monopolies and encourage competition deter corporate predatory activities. Hence anti-trust legislation, Monopolies and Mergers Commissions, and competition policies are all means of ensuring corporate economic responsibility.

3. **Environmental Responsibility** – Ungoverned corporate and industrial activity will naturally pollute and degrade the environment, reduce biodiversity of ecological systems and deplete stocks of natural resources. Following the adoption of the Stockholm Declaration by the first UN Conference held specifically to consider problems of the environment in 1972, which was succeeded by the Rio Declaration by the Second Major UN Conference on environment and development in 1992, countries have enacted environmental protection legislation and agencies which set down and enforce environmental standards.

Principle I of the 1992 Rio Declaration proclaims that-
“Human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature”.

Specifically Principle 22 states that –

“Indigenous people and their communities, and other local communities have a vital role in environmental management and development because of their knowledge and traditional practices. States should recognise and duly support their identity, culture and interest and enable their effective participation in the achievement of sustainable development”.

4. **Social Responsibility** – This is the topic under consideration in this paper.

5. **Political Responsibility** – Perhaps the most difficult challenge facing multinationals. How far should foreign trade and investment be determined by the human rights climate of the host country? Do multinationals have a political responsibility to support and promote human rights and freedoms and actively avoid contributing to abuses?

It is my view that in the new millenium we are likely to see the growth in the development of corporate political responsibility

Another method of categorisation shows the areas of corporate responsibility as -

1. Economic Responsibility – run an efficient and effective business.
2. Legal Responsibility – play by the rules.
3. Ethical Responsibility – do what is right.
4. Discretionary Responsibility – go beyond the call of duty.

In my opinion, corporate social responsibility falls under the third category i.e. ethical responsibility, and is no longer regarded as pure philanthropy or benevolence.

Definition

For the moment let us examine the doctrine of corporate social responsibility. There are several appellations used in describing this concept such as, *corporate social accountability, corporate ethic and corporate citizenship.*

What do these phrases mean? Corporate Responsibility has been defined as -

“the long-term pursuit of commercial success based on the creation of value for all the corporation’s stakeholders”.¹

The Ecumenical Committee for Corporate Responsibility (ECCR) began work in 1993 to create bench marks for measuring corporate responsibility globally. In 1995 ECCR launched a set of agreed principles which included a definition of the concept of stake holding in corporate affairs as being concerned with:

- “ - the ecosystem, that is the environment in which the business operate;
- the national communities in which the business is developed and sustained;
- local communities which are “hosts” to companies and industry;
- the employees who provide the labour; and
- the customer, supplier and contractors who feel the impact of the companies activities in many differing ways”²

This theme of business ethics defined in terms of a company's commitment to key stakeholders is a common one. While the principles of corporate responsibility apply to all these categories of stakeholders, we are today only concerned with their application to local or host communities and, tangentially, to the employees.

This issue of corporate social responsibility is one of the burning issues of the day. In a recent Guardian (Nigeria) Newspaper, I counted four separate items on the Niger Delta problems. Of particular interest was an advert by the Constitutional Rights Project (CRP), an NGO, which treated the vexed issue of the plight of the indigenes of the Niger Delta and the consequent violence and unrest in that area.

The CRP declared that –

“ The principles of corporate social responsibility demands that a company deriving a utility from a community should respond positively to the problems of that community”.³

That is as clear a statement as any on the meaning of corporate social responsibility.

Corporate social responsibility encompasses a wide range of practices such as strategic philanthropy, corporate-community partnership, corporate diversity, host community participation and consultation.

You might well ask why the subject of corporate social responsibility is so important? Is it really a vital issue for corporations? Is it part of the core purposes of a corporation's existence, or is it rather simply an ethical and moral question? The answer to this I believe is provided by a better exponent of this topic than I.

1 Corporate Responsibility Initiative, SRB at www.srb.org.

2 Principles for global corporate responsibility: bench marks for measuring business performance, 1995, ECCR, 11 Burnhamwood, Fareham, Hants, England.

3 Our Rights – The Plight of Oil- Producing Communities by Constitutional Rights Projects, 2 November, 1999. The Guardian, Page 5.

Roy Culpeper, President of *The North-South Institute*, in his address last year to *The Canadian Centre for Ethics and Corporate Policy* articulates the arguments for corporate social responsibility as follows -

- “increasing corporate social responsibility is part of the evolution of market-based societies from unbridled to a mature capitalism;
- that the driving force behind this evolution is the quest for social equity and justice, as well as environmental sustainability;
- and that while there is typically a tension between the forces of social justice and the entrepreneurial, individualistic forces of the market, in the long run they must work together if market capitalism is to survive”.⁴

The drivers behind the evolving principles of social responsibility have been shareholders, NGOs, consumers and communities, all non-governmental. However, in the local contexts, official Nigerian government has long supported the view that partnership between government and corporations is necessary if there is to be rapid improvement in the lives of our citizens.

The VISION 2010 Report on the Upstream Petroleum Sector sets out seven (7) objectives of the industry, the third objective being to “make community stakeholders in the successful operations of the industry”.

To achieve this objective, it is the upstream vision that “industry will ... encourage programs and schemes to enable members of the communities to have a direct interest in continuous production operations in their areas”.

One of the strategies adopted by the Report to achieve this vision for the communities is to “continue industry funded community development programmes”.

More recently at the 6th Nigerian Economic Summit held in Abuja last month, the Presidential Adviser on Petroleum and Energy, Alhaji Rilwan Lukman, cited one of the Federal Government’s main goals in the Niger Delta as the promotion of maximum cooperation between industry, government and host communities.

⁴ Address to *The Canadian Centre for Ethics and Corporate Policy* by Roy Culpepper, Toronto, 2 December, 1998.

Again, the Upstream Petroleum Group at the 6th Nigerian Economic Summit (a group in which I participated and assisted in drafting the group recommendations) made several recommendations concerning host community issues. The Upstream Group, which consisted of both the private and public sectors, with valuable contributions from the Group Managing Director of NNPC, Mr. Gaius Obaseki, and the Chairman of the Senate Committee on the Niger Delta, Mr. Fred Brume, recommended that

- the Federal Government implement 13% Derivation allocation NOW;
- pass the Niger Delta Development Commission (NDDC) Bill as soon as possible. Funding for the NDDC is proposed to come from:
 - 1) the 13% Derivation Account
 - 2) Oil companies contributions
 - 3) Penalties for gas flaring
 - 4) the Ecological Fund.
- provide for multi-level distribution of NDDC funds, i.e. to
 - 1) states
 - 2) local government, and
 - 3) directly to producing host communities
- Oil companies are to continue to honour MoUs signed with local communities and community development programmes independently sponsored by oil companies.

The implementation of community development programmes requires the cooperation, partnership and participation of government, the host communities and increasingly, there is a call for outside experts and non-profit NGOS to work with the industry in this area.

It has often been observed that initiatives which are meant to improve the welfare of citizens too often fail. Corporate responsibility requires more than throwing money at the problem. It is necessary to contribute money and equally necessary to create a better framework, design more efficient systems and build the capacity to get the desired results. The partnership and participation between corporations, government, NGOS, outside experts and the communities should create better systems to solve our current difficult social problems in the Niger Delta.

The Shell Example

I would like to look briefly at an example of a corporate turnaround on the subject of corporate social responsibility, which was engineered largely by concerned shareholders of the company. I refer to the shareholders' role in promoting change in environmental and corporate responsibility in Shell.

Shareholder interest in matters relating to corporate ethics, environmental policy and corporate governance was aroused in 1995 as a result of Shell's disposal arrangements for the *Brent Spar* and the campaign for the release of Ken Saro-Wiwa.

Shareholder consultations with the company culminated in the filing of a Shareholders' Resolution at the 1997 AGM. The Resolution addressed the company's environmental and corporate responsibility policies, their implementation, verification and subsequent reporting to shareholders on a group-wide basis. The Resolution was filed on behalf of some institutional and private investors, with the support of the Ecumenical Council on Corporate Responsibility (ECCR), the Worldwide Fund for Nature (WWF) and Amnesty International UK in these terms –

In recognition of the importance of environmental and corporate responsibility policies, (including those policies relating to human rights), to the company's operations, corporate profile and performance, the directors are requested to

- *designate responsibility for the implementation of environmental and corporate responsibility policies to a named member of the Committee of Managing Directors*
- *establish effective internal procedures for the implementation and monitoring of such policies*
- *establish an independent external review and audit procedure for such policies*
- *report to shareholders regularly on the implementation of such policies*
- *publish a report to shareholders on the implementation of such policies in relation to the company's operations in Nigeria by the end of 1997.*

Shell effected significant and radical changes in its policies as a result of which shareholders currently feel that Shell has now moved as requested by the Resolution "to the head of the movement for corporate responsibility".⁵

⁵ *Environmental and Corporate Responsibility at Shell: The Shareholder role in promoting change, PIRC Limited, November, 1998*

In response to the Shareholders' Resolution, Shell took the following steps –

1. The Chairman of the Committee of Managing Directors was designated as responsible for the implementation of environmental and corporate responsibility policies. In addition a *Social Investment Committee* and a *Social Responsibility Committee* have been formed.
2. The company is developing innovative procedures to implement both environmental management and reporting and to address social accountability.
3. Shell produced its first independently verified group health, safety and environment report, reviewed by KPMG and PriceWaterhouse. Verification and auditing of social policies and procedures is being put in place.
4. Regular annual reporting to shareholders on the implementation of policies on a group-wide basis is now taking place.
5. SPDC produced a report for the 1997 AGM on Nigeria and is now reporting annually on environmental and community issues. The subsequent 1998 report was verified by KPMG.

Conclusion

The principles of corporate social responsibility are now firmly entrenched as legitimate expectations of a corporation's stakeholders. As Roy Culpepper says it has "gradually dawned on us that others besides the shareholders have a real stake in business. They should therefore also have a voice in how business operates".⁶

The advantages of establishing and institutionalizing a corporate responsibility programme are myriad. They include

- building long-term shareholder value, corporate financial stability and sustainability.
- consumer and customer approval and loyalty.
- promoting self-regulation and deterring government regulatory intervention.
- enhancing corporate reputation.

In today's competitive environment, enlightened self interest poses the challenge to corporations to be creative in using available resources to achieve maximum profitability while satisfying the corporate social mission.

⁶ *Ibid.*

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