



Oxfam France - Agir ici
and the CCFD-Terre Solidaire
present



HOLD-UP

I N T E R N A T I O N A L



“ An appeal for Europe
to set the rules for
companies ”
La Presse

Starring

COMPANIES WITH UNLIMITED UNRELIABILITY

With

THE EUROPEAN UNION

WHAT IS THIS CAMPAIGN FOR ?

Companies are concerned with making profit—there's nothing wrong with that. But this concern has taken on unprecedented scale in the last several decades, along with globalisation. In order to improve growth in income, some multinationals are prepared to revert to secrecy, tax evasion, violation of laws and destruction of the environment.

They can do this because very few regulations have been made internationally in these areas and because some groups now enjoy greater economic power than states. We must now define the rules of the game so that we can re-establish balances between private interest and general interest and between short-term profit and sustainable development. That is the objective of this campaign.

Profit, but not at any price

A crisis is heavy with foreboding, suffering and tension. The current crisis is no exception to the rule. We know that. So do those who live in less well-off countries. Yet, according to oriental wisdom, crisis and opportunity go hand in hand.

The current crisis first of all reveals that the blind race for profit leads towards a dead end. The financial sphere is the prime example of this. Financial operators lured by bonuses and incentives have gone mad, and the list of their misdeeds is long: deliberately granting expensive loans to insolvent households, taking reckless risks, circumventing laws via tax havens, doctoring accounts... .

The realization of the limits of this system based on secrecy and laissez-faire has come as a shock. Calls for state intervention are coming from all sides. The reckless pursuit for profit is poisoning the economy well beyond the banking sector. The economic activity that companies deploy at the global level suffers from the same ills: avoidance of rules, secrecy and impunity. The people of the South are the foremost victims.

Along with globalisation, the influence of big companies around the world has grown. They have pursued their search for profit in the "low-cost" countries, often to the detriment of respect of laws, human rights and the environment. The multinationals

are of course not the only ones responsible for lack of respect for rights and environment in the Southern countries: local companies and corrupt states often hardly do better. In many Southern countries, the fact that institutions are weak means there is no established framework to regulate the activity of local companies, and even less the multinationals from the Northern countries. Multinational corporations have the means as well as the duty not to take advantage of this, and – on the contrary – to encourage legal progress.

CCFD-Terre Solidaire and Oxfam France - Agir ici believe that companies can take advantage of their great capacity for investment and creation of activities as well as wealth and act as a driving force for development. For some of them, it seems that this role cannot be guaranteed without regulation. The current crisis provides an un-hoped for opportunity to produce new regulation for companies. The European Union can start taking concrete measures now, since the multinationals with the greatest influence at the global level are almost all registered on European territory.

Stop looking the other way...

Although less visible than a stock market crash because spread all over the planet, the damaging effects of certain unscrupulous multinational corporations affect millions of people daily. They can be measured in terms of rights violations among child labourers or forced labourers, in hectares of polluted land, in contaminated rivers and streams, in indigenous and peasant populations expelled, in health degradation among workers and in denial of freedom for unions. They can also be calculated in terms of tens of millions of dollars stolen from public treasuries. The damage linked to tax evasion by multinationals amounts to 160 billion dollars per year¹ for the Southern countries. This is more than three times the amount of development assistance received from the rich countries²!

¹ Christian Aid, report "Death and Taxes", May 2008.

² In 2006, the OECD countries as a whole declared official development assistance (ODA) of 103 billion dollars, but these figures are artificially inflated. Not more than half of this amount actually reaches the Southern countries.

The partners of CCFD-Terre Solidaire and Oxfam France - Agir ici have long denounced the negative impacts that certain French and European companies have on the most vulnerable populations. The consequences of such activities are more than obvious in the South, but it remains difficult to identify those responsible for these violations in the North.

Yet we all know that the work conditions of the 15 million people employed by the textile industry strongly depend on the purchase practices of its clients; that the exploitation of natural resources generates serious impact not only on the environment, but also on real estate and the communities living nearby; and, finally, that in the agri-food industries, the impact is felt on the incomes of rural labourers and peasants.

The mining industry sector is a prime example of negative impacts. Faced with states that often lack suitable technical and financial resources, multinational corporations involved in extractive industries have power that allows them to negotiate privileged conditions (tax exemptions, mining and drilling rights) for establishing themselves in those countries or to shape legal frameworks. Dealings on big contracts are often made directly with the head of state or the finance minister, without parliamentary control or transparency for citizens. This opens the door to corruption.

In Guatemala, the International Centre for Human Rights, a CCFD-Terre Solidaire partner, accused many investors in 2006, including Kellogg's and Colgate-Palmolive, of abusing tax laws. The estimated cost: 300 million euros per year, or 10% of the national budget³.

These industries also have a huge impact on society. From an economic angle, the industry has experienced a real boom: in 2007, the incomes of the 40 biggest mining companies increased 40 % following increase in Chinese demand. But communities everywhere living alongside these sites are suffering the devastating effects of the rush towards mineral resources.

In Madagascar, iléminite, a mineral consisting of iron and titanium, has transformed the city of Fort Dauphin into an open-pit mine. The local populations, who were not consulted, lost their source of income as a result: the fishermen no longer have access to the coastal waters, forests were cleared, etc.

But raw material extraction is not the only sector concerned – far from it. In the area of fruit production, it's interesting to note the gap between image displayed and practices in the field. For example, on its website the Compagnie Fruitière de Marseille proudly presents its participation in the construction of a hospital in Cameroon, yet the employees of the PHP plantation (a subsidiary of the company) met violent repression when they demanded improvement in their working conditions: salaries lower than the local minimum, absence of protection against chemical products, etc.

A perverted conception of business

There are many workers, employees, executives, as well as corporate directors who refuse to limit business to a tool for making profit. They struggle to maintain quality products or services and to make their company a place where everyone finds his or her place. And they have their work cut out for them. The dominant way of thinking today is that of short-term profit.

The foundations of business law, which were designed at the beginning of the industrial era to enable the raising of funds needed for industry to get off the ground, are no longer adapted.

The corporate body, the limited responsibility for the amounts invested in the company and the ability for a corporate body to itself become owner of another corporate body represent the three pillars of business law. This law implicitly encourages the company to act solely in the interest of its "owners", without taking into account its impacts on society and the environment. Beyond that, it enables the parent companies to reap the profits from the activities of their subsidiaries and companies they control, without bearing responsibility for the latter. This is how the complex chain of companies and suppliers that make up the driving force of European multinationals outside of the European Union too often leads to ethically questionable behaviour.

This system leads to nearly total impunity for European companies when they act in Southern countries. Furthermore, by taking advantage of trade between their many subsidiaries, the least scrupulous multinational corporations manipulate

³"Guatemalans Denounce Tax Evasion", Prensa Latina, press release of 19 June 2006.

the prices practised in order to optimise their profits, which are then diverted to tax havens.

The multinationals have been questioned in the last several years about their impacts, and they have shown an incredible capacity for adaptation. They have realised that they must answer for their behaviour and that much is at stake regarding their image. The most well known of them have developed "social responsibility" policies. They have voluntarily made commitments through charters and codes of conduct. But it's taking a long time for this initial, interesting step to work out into concrete progress for the victims of injustice. Furthermore, their voluntary nature heightens the inequalities between companies: only the most virtuous bear the burden, and the companies that are not very sensitive to their image are not encouraged to act.

States are gradually beginning to recognize the need to better regulate companies. For example, the final declaration of the G8 summit of July 2008 stipulates that "[the voluntary measures] do not replace regulations and suitable supervision by governments". The fiasco of self-regulation in the banking sector should be all that's needed to convince leaders of the limits of a non-binding approach.

In France, obligations for transparency and responsibility already exist, but they concern a limited number of companies and situations. On the financial level, some companies have, within the framework of the Extractive Industries Transparency Initiative (EITI), undertaken to publish their profits and the amounts they pay back to states. But this is only on a voluntary basis.

The role of Europe

Mobility is a considerable advantage that multinational corporations have over states. It enables them to put social, tax or environmental legisla-

tions into competition. Regulating companies is therefore initially to be considered at the regional level. Several simple and realistic reforms are possible. Until an international legal regime peculiar to multinational corporations is set up⁴, existing measures can be adjusted to partially fill the legal void that these economic operators cash in on.

Europe has a key role to play in forcing companies to be more transparent as well as to prevent and repair their social and environmental impacts. Europe must be an example by proposing common rules to multinational and European firms. Rules of the game based on transparency and responsibility of economic operators are an urgent necessity. They would have the merit of putting all companies on an equal footing and of avoiding the vicious spiral of competition (which encourages sacrificing human rights) as much as practices that are borderline in terms of legality (tax avoidance, etc.).

France, as a founding member of the European Union, could impose rules that limit the risks put on the populations of many Southern countries by companies, directly via their subsidiaries or indirectly via their purchases. Such rules are all the more necessary because the governments of these countries often do not themselves have the means to oppose these practices, and because today there is no international organisation able to impose binding social, tax and environmental rules on a global level.

Although the issue of legislative reform is not on the agenda in Brussels for the moment, reforming existing legal frameworks represents a unique opportunity to curb the bad management of transnational companies. These revisions of existing law would enable all the parties concerned to have recourse to justice more easily and to avoid the risks

⁴ CCFD-Terre Solidaire is also striving for progress in this regime, as part of the process started up by the United Nations special representative regarding multinational corporations, John Ruggie.

OUR RECOMMENDATIONS

Many countries of the European Union, including France, have already taken measures towards greater social, tax and environmental responsibility for companies. Yet, a harmonised European framework is still lacking. That's why we want the European Union to commit itself to binding regulation for companies through the following measures:

- Fight against parent company impunity regarding the human and ecological impacts of their subsidiaries, by extending their responsibility to the activities of the latter.
- Avoid social and environmental risks, by demanding companies that they take due care regarding their subcontractors and suppliers.
- Demand that companies publish a report on the social, environmental and human-rights impacts of their activities.

- Revise international accounting standards with the demand that multinationals account for their activities, their profits and the taxes they pay, in each country where they operate.
- Put an end to the secretive structures of tax havens, by eliminating shell companies from European territory and overseas territories via the creation of a European register by which the true owners and beneficiaries of each legal entity created can be identified.

These five proposals are inseparable from one another, insofar as they make it possible, as a whole, to provide reference framework to societal commitment by European companies in Southern countries.