



IRRC

C O R P O R A T E S O C I A L I S S U E S R E P O R T E R

Impartial Research on Companies and Shareholders Worldwide

March 2004

AEP, Cinergy, TXU to Issue Climate Risk Reports

On Feb. 19, **American Electric Power** and **Cinergy**, two of the nation's largest coal-burning utilities, announced plans to publish board-level reviews of climate change and the possible effects on shareholder value of policies to address it. The two companies' announcements were followed just a few weeks later by similar agreements at **TXU** and **Reliant**. The four companies were among the 13 U.S. energy firms that had received nearly identical shareholder proposals asking that their board of directors, or a committee of independent directors, "explain how the company is responding to rising regulatory, competitive and public pressure to significantly reduce greenhouse gas emissions."

Setting a Precedent

In these precedent-setting agreements, members of the companies' boards of directors have agreed to publish a model report that addresses how these firms are responding to pressure to reduce carbon dioxide as well as conventional air pollutants like sulfur dioxide, nitrogen oxides and mercury. The agreements mark the first time that such major carbon-emitting companies have pledged to conduct such board-level risk as-

sessments and make the results publicly available. The reports will be issued by Sept. 1, 2004.

In Cinergy's case, the report will be prepared under the auspices of the Public Policy Committee of the board, with its contents disclosed to shareholders in an "appropriate and cost effective manner." Cinergy had a his-

[]
The proponents contend that climate change raises strategic policy questions about how companies will operate in the future and may be material to their financial prospects.
[]

tory of being somewhat combative with the proponents. It had successfully challenged a different 2003 climate change resolution at the Securities and Exchange Commission, and

had filed another, less promising, challenge of this year's proposal on ordinary business grounds. But Cinergy CEO Jim Rogers was also eager to showcase the leadership position his company has taken on climate change. Last September, Cinergy announced that it would reduce its greenhouse gas emissions 5 percent below 2000 levels by 2010 and freeze them through 2012, making it one of the strongest commitments in the utility industry.

In March, the Benedictine Sisters withdrew the resolution at TXU when the company agreed to hire a consultant to prepare a report that will be completed in June to look at the "financial consequences and related risk" of prospective climate change policies. The company has agreed to share an advance draft with the proponents and to consider additional analysis based on their comments. The full board will review the study. In addition, the New York City Comptroller's Office withdrew its resolution at Reliant Resources just as this article went to publication; details of the withdrawal agreement were not yet available.

AEP Agreement

More details are available on AEP's *(continued on p. 3)*

5 **Caterpillar Questioned on Sales to Israel**

7 **New Report Eyes Foundations' Failure To Vote**

12 **Proponents Score Record Victories for Gays**

In This Issue

Environment

AEP, Cinergy, TXU to Issue Climate Risk Reports - Three of the nation's largest coal-burning utilities have announced precedent-setting plans to publish board-level reviews of climate change and the possible effects on shareholder value of policies to address it. The companies were responding to shareholder proposals. **1**

Proxy Season

Caterpillar Questioned on Bulldozers in Israel - Shareholders on Caterpillar will be asked at its annual meeting next month to review the controversial use Israeli defense forces have made of the company's products. According to peace activists, the Israel Defense Forces, using Caterpillar bulldozers, have razed thousands of Palestinian homes. **5**

New Report Eyes Foundations' Failure to Vote - A forceful new report, published jointly Feb. 25 by Rockefeller Philanthropy Advisors and the As You Sow Foundation, criticizes the vast majority of U.S. foundations for failing to pay attention to proxy voting. **7**

SEC Reopens Comment Period on Proxy Access Rule **8**

SEC Staff Sanctions Omission of GRI Proposals - With proxy statements now rolling off printers, the Securities and Exchange Commission staff has recently had to make the lion's share of decisions in response to companies' requests to omit resolutions under the shareholder proposal rule. Particularly notable in the last month were the omissions of proposals asking companies to report under the Global Reporting Initiative guidelines. **9**

Employment

Proponents Score Record Victories for Gays - CenterPoint Energy became the 18th company this year to agree to include sexual orientation in its non-discrimination statement. Peer pressure, public sentiment, state and local laws and pragmatic business arguments seem to be the drivers of this recent trend. **12**

The Federal Government Removes Assurances for Gays **13**

ILO Says Globalization Can and Must Change - A recent report by a subsidiary body of the International Labor Organization (ILO) sounded a pessimistic note about the social impact of globalization to date. **13**

Greenspan Slams Tying Labor Rights to Trade **14**

Imbalances Persist at Non-U.S. Firms in N. Ireland - IRRC's annual survey of multinational firms' fair employment practices in Northern Ireland found that U.S. firms—at least in aggregate—continued to employ Catholics and Protestants at rates proportionate to their representation in the overall work force in 2003. In contrast, Catholic employment at major non-U.S. employers lagged behind their representation in the work force. **15**

Corporate Social Issues Reporter is an independent newsletter published 10 times a year by IRRC's Social Issues Service. The Social Issues Service offers impartial research and analysis on corporate social responsibility issues, particularly those raised in proxy statements and at corporate annual meetings. *Corporate Social Issues Reporter* is available by separate subscription. For information, contact:

Investor Responsibility
Research Center
1350 Connecticut Ave., NW
Suite 700
Washington, DC 20036
Telephone: (202) 833-0700
Fax: (202) 833-3555

www.irrc.com

Editor:
Meg Voorhes

Reporters:
Doug Cogan
Peter DeSimone
Carolyn Mathiasen
Daniel McQueen
Heidi Welsh

Assistants to the Editor:
Felicia Apollon

© Copyright 2004,
Investor Responsibility
Research Center
ISSN 1090-0829



IRRC

withdrawal agreement, which was made public at IRRC's Proxy Season Preview in New York City on Feb. 19. The company will form an ad hoc subcommittee of the Policy Committee of its board to focus, among other things, on the possible effects of government proposals to address climate change. AEP is the nation's largest emitter of carbon dioxide. It is also the largest utility emitter of sulfur dioxide, nitrogen oxides and mercury, which are regulated under the Clean Air Act. Commenting on the shareholder resolution from the Connecticut Retirement Plans, Dale Heydlauff, AEP's Senior Vice President of Governmental and Environmental Affairs, said: "We reviewed their proposal and concluded that their request for an emissions assessment and report was reasonable. We view it as consistent with the hard work we are doing to make environmental improvements while keeping our power plants competitive."

AEP's ad hoc subcommittee will be headed by Robert Fri, the chair of AEP's Policy Committee. (Fri is also an energy scholar and past president of Resources for the Future.) Joining Fri on the subcommittee will be Donald Carlton, the chair of AEP's Audit Committee, and John DesBarres, the chair of AEP's Human Resources Committee; all three are independent directors. (Carlton also is a director of **Valero Energy**, which has a climate change proposal pending.)

In a letter to Connecticut Treasurer Denise Nappier, Fri and AEP Chief Executive Officer Michael Morris said they share her view that "management and the Board have a fiduciary duty to carefully assess and disclose to shareholders appropriate information on the company's environmental risk exposure." They also pledged to meet with the proponents and consult with other sources "on what they would recommend the company do to mitigate the economic impact of future environmental control

requirements in order to ensure that the company has adopted a prudent course of action."

AEP will print a summary of the proponents' shareholder resolution in its 2004 proxy statement and will state its plans for completing the environmental risk assessment. Elements of the forthcoming report are as follows:

- A discussion of the environmental requirements that the company currently faces and may face in the future, with particular attention to an assessment of current proposals for mandatory constraints on carbon dioxide emissions;
- An assessment of the strategic options the company could take to respond to these requirements, with emphasis on their impact on shareholder value and the competitive position of the company;
- An evaluation of the actions the company is taking and proposes to take to respond to current and future requirements and an assessment of these current and proposed actions on shareholder value. This evaluation will include how those actions affect and will affect AEP's total annual emissions of sulfur dioxide, nitrogen oxides and mercury, and the net emissions of carbon dioxide after accounting for offsets, for the timeframe of 2000-2020.

Focus on the SEC

The proponents took pains this year to draft language that could withstand scrutiny at the Securities and Exchange Commission. In 2003, they ran into trouble at some energy companies when they asked for "evaluation of risks and benefits"; several companies argued successfully at the SEC that risk evaluation was an "ordinary business" issue not suitable for shareholder resolutions. With the change in wording this year, the proponents believe they are focusing on

a "significant social policy issue" that rises above ordinary business matters, and the SEC appears to agree (except in the case of insurance companies; it has allowed two insurance companies this year to omit climate-related proposals). The SEC has now turned down requests filed by several of the energy firms that had sought to omit the proposals on ordinary business grounds.

Nonetheless, shareholder proponents remain troubled by the precedent set in prior SEC decisions. The proponents contend that climate change raises strategic policy questions about how companies will operate in the future. In particular, company decisions about whether to maintain existing equipment and product lines versus investing in new technologies may be affected by carbon constraints, and therefore be material to their financial prospects and competitive positioning, in the proponents' view.

Yet if such an "evaluation of risks and benefits" is an ordinary business matter in the eyes of the SEC, the proponents argue, why aren't more companies routinely disclosing information about climate change in their securities filings? A 2003 report by Ceres, prepared by the Investor Responsibility Research Center, *Corporate Governance and Climate Change: Making the Connection*, examined the 2002 Form 10-K filings of 20 major industrial companies. It found that eight of the 20 companies made no mention of the climate change issue or possible GHG emissions controls whatsoever. (Companies not discussing the issue included major carbon energy producers like **ChevronTexaco** and **ExxonMobil**, as well as manufacturers of major carbon-emitting products like **General Electric** and **General Motors**.) The 12 companies that did address climate change in their Form 10-K filings typically mentioned proposed government regulations, but offered few specifics on the possible

material impacts of GHG controls on their operations and financial condition.

The environmental group Friends of the Earth also conducted a survey of the 2002 Form 10-K filings by 96 companies. This survey included U.S. and foreign firms with the largest market capitalization in the automobile, electric power, insurance, integrated oil & gas and petrochemicals sectors. It found that less than one-quarter of the largest publicly traded U.S. companies in these five major industry groups made any reference to climate change in their 2002 Form 10-Ks. By contrast, more than three-quarters of the comparable European, Japanese and Canadian firms listed on U.S. exchanges did discuss climate change in their 20-F filings with the SEC.

Accordingly, the SEC decision to treat the “evaluation of risks and benefits” of climate change as an ordinary business matter has put shareholder proponents in a Catch-22. On the one hand, the SEC is saying that requirements are already in place to govern such disclosure in securities filings. (Regulation S-K, in particular, sets standards for disclosure of “uncertainties” known to management that are “reasonably likely” to have material effects on a company’s financial condition.) Yet many companies exposed to the risks of climate change and related policy proposals still are ignoring the issue in their securities filings. Moreover, the SEC is not penalizing them for failure to disclose.

One way to resolve the issue would be for the SEC to provide additional guidance—in the form of a let-

ter or interpretative bulletin—about whether climate change is a material issue ripe for disclosure. In so doing, the guidance might also spell out the time frame in which companies typically would assess such issues of materiality. Alternatively, the SEC could take greater enforcement actions under Regulation S-K to compel such disclosure in the Management Discussion and Analysis section of companies’ securities filings. Proponents of the global warming shareholder campaign are now in preliminary discussions with SEC staff to explore these response options.

What Is Proper Disclosure?

Whether the SEC were to offer new guidance or stronger enforcement of existing regulations, the proponents’ ultimate goal is to set disclosure standards to help investors value firms appropriately, taking into account their climate-related risks and opportunities. In their contact with the SEC, the proponents have laid out at least four elements of disclosure that they believe should appear in companies’ Form 10-K filings:

- Climate policies and regulations, such as the Kyoto Protocol and the emissions trading scheme that will go into effect in the European Union in 2005, which may affect the company and its industry sector.
- The options the company has to respond to these requirements, and their consequences for shareholders.
- The actions the company is taking and/or proposes to take to respond to these requirements.

- An overall assessment of the actions in terms of how they might affect the financial condition and operations of the firm, and whether such effects would be material to shareholders.

Terms of the recent withdrawal agreements at American Electric Power and Cinergy urge management at these companies to cover each of these issues, though it remains to be seen whether such disclosure will make its way into their Form 10-K filings. (There is no condition in the withdrawal agreements that such findings appear in the companies’ securities filings.) At the same time, the proponents know they have to tread lightly on these issues, especially at companies that have challenged their proposals at the SEC, because such requests for comprehensive risk-benefit analyses run afoul of the SEC’s current treatment of the shareholder proposal rule.

Accordingly, shareholder proponents in 2004 are willing to discuss other types of company disclosure on climate change that avoid an evaluation of financial risks and benefits. These include having the company:

- Establish a meaningful and sustainable greenhouse gas-emission reduction goal, based on absolute targets.
- Implement comprehensive and verifiable public reporting of its greenhouse gas emissions from products as well as facilities.

Companies that pledge to adopt these objectives, or carry on dialogue in support of them, may become additional candidates for withdrawal of still-pending climate change resolutions in the 2004 proxy season.

—Doug Cogan

Caterpillar Questioned on Bulldozers in Israel

Shareholders at Caterpillar will be asked at its annual meeting next month to review the controversial use Israeli defense forces have made of the company's products. According to peace activists, the Israel Defense Forces, using Caterpillar bulldozers have razed thousands of Palestinian homes since 1967, and destroyed hundreds of thousands of trees in Palestinian owned orchards in the last few years alone.

Concerns about Caterpillar sales to the Israeli military have risen since the Israel Defense Forces (IDF) began a major operation in April 2002 in the Jenin refugee camp to capture or kill Palestinian militants responsible for killing over 70 people in a quick succession of attacks and suicide bombings. In the process, the IDF, using American-made Caterpillar bulldozers, completely destroyed 140 Palestinian homes and caused serious damage to another 200. Some homes were destroyed with civilians still inside them. Nearly a year later, an IDF soldier driving a Caterpillar bulldozer crushed an American human rights activist, Rachel Corrie, as she tried to stop the demolition of a home in the Gaza Strip.

The Resolution

Shortly after Corrie's death, Jewish Voice for Peace, a California-based organization promoting a peaceful resolution of the Israeli-Palestinian conflict, approached representatives of Mercy Investment Program and Sisters of Loretto to file the resolution. Although Jewish Voice for Peace didn't own Caterpillar stock at the time, it has since purchased stock to be the primary filer of the resolution in the future. The organization is part of a broad coalition that sponsors a website to bring attention to the IDF's use of Caterpillar bulldozers (www.catdestroyshomes.org). It plans to attend Caterpillar's annual meeting with the proponents, distribute ma-

terial to shareholders and question the company on its policy towards Israel.

The proponents specifically request that the company "appoint a committee of outside directors to issue a report" that addresses the "process for review and evaluation used to determine whether the sale (either directly or through intermediaries, including agencies of the United States government) of Caterpillar equipment to the IDF comports with Caterpillar's Code of Worldwide Business Conduct."

According to the resolution, "since 1967, the Israeli government has used Caterpillar equipment, including specially modified D9 and D10 bulldozers, to destroy over 7,000 buildings in the West Bank and Gaza Strip, leaving 50,000 men, women and children homeless," and "have used Caterpillar equipment to uproot hundreds of thousands of olive trees as well as orchards of dates, prunes, lemons and oranges causing widespread economic hardship and environmental degradation in rural areas of Palestine."

The resolution states:

We are concerned by the actual and potential damage to Caterpillar's international sales and worldwide reputation because of the widely-publicized use of Caterpillar equipment, particularly D9 and D10 bulldozers to destroy Palestinian homes, infrastructure and agricultural resources. We are interested in determining if the evidently small amount of revenue derived from these sales outweighs the economic and public relations costs, especially in the United States, Europe and Arab countries, and whether Caterpillar's directors can reconcile acquiescence in the IDF's use of this equipment for these purposes with Caterpillar's Code of Worldwide Business Conduct.

Caterpillar's Code of Worldwide Business Conduct, to which the propo-

nents refer, is published on the company's website. Under the heading Social Responsibility, Caterpillar says it "accepts the responsibilities of global citizenship. Wherever we conduct business or invest our resources around the world, we know that our commitment to financial success must also take into account social, economic, political, and environmental properties. We believe that our success should also contribute to the quality of life and the prosperity of communities where we work and live." Under Public Communication, Caterpillar says, "Caterpillar prospers not only by our customers' acceptance of our products and services, but also by the public's acceptance of our conduct," and that it would "respond to public inquiries... with prompt, courteous, honest answers."

The company says in its Environmental Stewardship section that the company understands "that our products and services must support sustainable development of global resources and that they are expected to conform to applicable regulations and standards wherever they are sold... We educate and encourage our customers to use the products they purchase from us in environmentally responsible ways."

Caterpillar's Response

Caterpillar has responded in its proxy statement by saying that the company "shares the world's concern over unrest in the Middle East and we certainly have compassion for all those affected by the political strife." However, Caterpillar says that the company has "neither the legal right nor the means to police individual use" of the "more than two million Caterpillar machines and engines" working daily "in virtually every country of the world." It says that it believes "any comments on political conflict in the region are best left to our governmental leaders who have the ability to im-

Proxy Season

pact action and advance the peace process.”

Contact between the proponents and the company has been minimal. According to the Sister Mary Ann McGivern of the Sisters of Loretto, James Buda, Caterpillar’s general counsel and corporate secretary, contacted the proponents after the resolution was submitted. She told IRRC that he “wasn’t willing to meet with us unless we withdrew the resolution first. We decided that wasn’t the best plan for us. What we were requesting is very vague to give the company a lot of wiggle room. We had hoped we would reach some kind of an agreement with the company to provide more information.”

Caterpillar has said elsewhere that its bulldozers are purchased by the U.S. government and given to Israel through the U.S. Foreign Military Sales Program created under the Camp David Accord. These military exports are part of the U.S. government’s foreign aid package to Israel. The company has not disclosed how much it makes through its participation in this program.

The company declined to comment for this article.

Caterpillar Bulldozers in Israel

Jewish Voice for Peace asserts that because the bulldozers are given to Israel through the U.S. Foreign Military Sales Program, they are considered military in nature and are therefore weapons. It claims that the United States therefore is violating the U.S. Arms Export Control Act, which prohibits the use of military aid against civilians. The proponents contend that Caterpillar could withdraw from the Pentagon program.

One of the primary bulldozers in question is the Caterpillar D9 bulldozer, which weighs over 60 tons and stands 13 feet tall. The IDF has retrofitted the bulldozers with armored plating so they can operate under heavy fire in military operations. The IDF

has also added machineguns, smoke projectors and even grenade launchers to individually modified D9 units. Israeli troops have nicknamed the behemoths *Duby*, which means “bear” in Hebrew. The IDF made news headlines in October with its plans to make the bulldozers remote-controlled, claiming that the new feature would lower the risks to its soldiers. Palestinians claim that more civilians will be needlessly killed because of greater operating errors. No IDF operators have been killed during the last three years.

The bulldozers have been used for a variety of military and nonmilitary purposes in Israel. The most contentious are the razing of Palestinian homes that have been built without proper permits, and the destruction of homes for security purposes; clearing tracts of land near outposts and security checkpoints, and even destroying homes as a collective punishment for the families of suspected Palestinian militants. Bulldozers have also been used in military offensives to destroy buildings that militants are using for cover, and for destroying explosive devices in homes that would otherwise injure Israeli troops. The bulldozers have been used to clear tracts of land for the new separation barrier, which Israel contends is necessary to stop terrorist attacks. Palestinian orchards have been destroyed because militants have supposedly used the trees for cover.

According to B’Tselem, The Israeli Center for Human Rights in the Occupied Territories (www.btselem.org), between October 2001 and March 7, 2004, “Israel completely demolished 517 houses and partially demolished two.... These cases of demolition... were executed pursuant to Regulation 119 of the Emergency Defense Regulations” which states that a military commander “may by order direct the forfeiture” of any house, structure or land from which “he has reason to suspect” an attack has originated, as well as “any house, structure or land, situated in any area, town, village, quar-

ter or street the inhabitants or some of the inhabitants of which he is satisfied have committed, or attempted to commit, or abetted the commission of, or been accessories after the fact” to any offence “involving violence or intimidation,” and that “when any house, structure or land is forfeited as aforesaid, the Military Commander may destroy the house or the structure or anything growing on the land.”

According to a Human Rights Watch report published after the Jenin raid, the IDF used armored bulldozers there to widen alleys to allow their armored vehicles to pass through the camp and to destroy buildings in which suspected militants were hiding. However, Human Rights Watch condemned the use of armored bulldozers as excessive. “Based on detailed maps in which individual buildings can be identified, Human Rights Watch counted a total of 140 completely destroyed buildings in the camp—many multi-family dwellings—of which more than one hundred were located in the completely razed area of the Hawashin district.... Aside from the razed Hawashin district, over 200 houses sustained major damage, most so serious as to render the homes within uninhabitable.” The Hawashin district appeared to be specifically targeted for destruction by the IDF after a number of Israeli soldiers were killed in an ambush there by Palestinian militants.

According to Human Rights Watch, witnesses also described “how the IDF’s armored bulldozers began destroying their homes while they were still inside, endangering the lives of civilians.” HRW documented one case in which a paralyzed man was buried alive by an IDF bulldozer when his family could not evacuate him in time. According to the report, “Despite the pleas of the family, the IDF bulldozer refused to stop the demolition of the home.” It reports that 52 Palestinians, at least 22 of which were civilians, were killed in the raid. Twenty-three Israeli soldiers were also killed.

Corrie's death intensified concerns about the IDF's use of Caterpillar equipment. On March 16, 2003, an IDF armored bulldozer manufactured by Caterpillar crushed Corrie, an activist for the International Solidarity Movement, while she stood in front of the bulldozer to stop it from destroying a Palestinian home in the Gaza Strip. The driver says he didn't see her. At the time of the incident, Corrie was wearing a bright orange vest and yelling at the driver through a bullhorn to stop. Standing on a mound of moving dirt directly in front of the bulldozer, Corrie lost her footing and fell. The driver pushed the mound on top of Corrie, ran her over and then backed over her again. She was pronounced dead at a hospital a few hours later.

Because of Corrie's death, Caterpillar has been the target of several

boycotts, continued direct actions and many negative press reports. Corrie's parents have been vocal critics of Caterpillar and Israel. The Stop Caterpillar Coalition (www.stopcat.org) is planning a march on Caterpillar's corporate headquarters in Peoria, Illinois, on April 23rd, to demand that the CEO "meet with a delegation of victims of violence and destruction perpetuated using CAT equipment."

Liat Weingart, Director of Campaign Programs for Jewish Voice for Peace, told IRRC that Corrie's death exemplifies the gap between Caterpillar's stated policy and the end use of its products. She says, "Caterpillar has a company policy that its products would be used for constructive purposes, when in this case the bulldozers are being explicitly used for destructive purposes. This makes them an open target. The death of

Rachel Corrie made the issue more visible and made the company more vulnerable. At this moment we are working specifically to target Caterpillar because we want Caterpillar to assume some responsibility for its role in the ongoing Israeli-Palestinian conflict. We want U.S. companies to know that the business of human rights abuse is not profitable."

Jewish Voice for Peace has a larger goal as well. As Weingart says, "It almost seems that there's no handle on the conflict in the United States, that this is a conflict 'over there' and that the major actors are Israelis and Palestinians. What Americans don't understand is that the major actors are the United States, Israel and Palestine. Without the U.S. role of providing weapons to Israel, Israel would realize that it would have to change its policies towards Palestine."

—Daniel McQueen

New Report Eyes Foundations' Failure to Vote

A forceful new report criticizes the vast majority of U.S. foundations for failing to pay attention to proxy voting. The report, "Unlocking the Power of the Proxy: How Active Foundation Proxy Voting Can Protect Endowments and Boost Philanthropic Missions," was published jointly Feb. 25 by Rockefeller Philanthropy Advisors and the As You Sow Foundation. The report finds it "ironic" that most foundations have remained "aloof" from shareholder engagement, makes a case for their involvement and sets forth a process for developing proxy voting guidelines and implementing the machinery of proxy voting.

The Current Situation

When the investor responsibility movement got going in the early 1970s, a report commissioned by the Ford Foundation concluded that a failure to vote proxies was "inappropriate for a

public welfare institution with a deep commitment to social issues." Ford, along with the Rockefeller and Carnegie Foundations, provided the advance funding that got IRRC going in 1972. But while informed proxy voting took off after that, engaging groups from public pension to mutual funds, it never took hold in the larger foundation world.

The Feb. 25 report cites a recent Council on Foundations survey in which more than 60 percent of 680 respondents said they delegated proxy voting to investment managers. Fifty-four percent said they did not vote automatically with management, but only 10 percent of those had guidelines for voting proxies on social issues. Thus, the report concludes, by abstaining from proxy voting, foundations "have ceded their proprietary interest, by default, to their financial managers."

The report finds this failure "puzzling," not only because its disengage-

ment has deprived the foundation world of a voice in the recent corporate financial management scandals, but also because foundations are effectively "ceding the considerable power of their shareholder status to engage management on social and environmental issues that are often at the heart of a foundation's work." On the latter point, the report finds it especially odd that foundations have been much less active shareholders than public pension and labor funds. It comments:

Foundations do not exist mainly to protect the retirement benefits of workers as a pension fund does; they exist to challenge and improve our society. Engagement with corporations, who play a powerful and growing role in shaping every facet of our society, is a natural and complementary extension of a foundation's mission.

The report runs through issues that foundations have no say in if they

SEC Reopens Comment Period on Proxy Access Rule

The Securities and Exchange Commission has briefly reopened the comment period on its controversial proposed rule to allow the inclusion of shareholder-nominated board candidates on companies' proxy statements under carefully defined circumstances. The original deadline was reached on Dec. 22, with more than 12,000 comment letters registered.

The proposal would require companies to include in their proxy statements nominations from large shareholders of one to three directors, depending on the size of the corporation, at the annual meeting following the one at which either one of two triggering mechanisms have been set off—if more than 35 percent of shares voted to withhold support from a director and/or if 50 percent of shares had supported a shareholder proposal to allow director nominations. (Earlier stories/October *Social Issues Reporter* pp. 6-7) and December issue pp.8-10)

In the comments, the proposal drew heavy fire from both sides, with business interests arguing that it would disrupt corporate governance and many groups supporting proxy access, such as pension funds, responding that the two-year triggering mechanism was much too slow and cumbersome.

In the face of vigorous opinions, the SEC called an unusual full-day open forum for March 10 at which it heard testimony from more than 40 witnesses. Representatives of corporate interests urged the SEC not to adopt the proposal because, they said, other reforms, such as those enacted under the Sarbanes-Oxley Act and those put in place by new stock exchange listing requirements must be given a chance to work before companies are forced to comply with yet more rules. In addition, they said, the proposed rule would give special

interest groups too much influence. "We don't want special interests masquerading as shareholder interests," said Thomas Donohue, who represented the U.S. Chamber of Commerce. Donohue also warned the commissioners that "some of my colleagues believe we may be in a position to challenge this in court because there is some question as to whether the SEC has the authority to do this."

Those in favor of the SEC's proposed rule emphasized that shareholders have very little recourse when dealing with uncooperative companies. They maintained that the proposal not only would give them an opportunity to nominate and elect a few of their own board candidates, but also would give them more leverage when negotiating with companies on key governance issues. TIAA-CREF's Senior Vice President and Chief Counsel, Corporate Governance, Peter Clapman, told the commission that the proposed rules "have affected the dynamics of our negotiations with companies now, and if the SEC pulled these now, it would have an adverse effect on shareholders' quiet negotiations with companies." Responding to arguments that adding one or two dissident directors to a board upsets the dynamics in the boardroom, Nell Minow of The Corporate Library said, "Capitalism is not for sissies. Too much collegiality on a board often leads to a lowest common denominator scenario."

The intense, day-long meeting gave the commissioners little time to ask questions and therefore provided little new insight into how the SEC might come down on the proposal at the end; two of the Republican commissioners, Cynthia Glassman and Paul Atkins, have expressed some sympathy with businesses' concerns in the past. The commission has said it hopes to vote on a final rule by mid-summer.

ignore proxy voting. In the governance area, it maintains that recent scandals should be "a wakeup call" to trustees who hadn't been paying attention to corporate governance, and it notes that a record 130 proposals had received more than 50 percent support in 2003. On social issues, it acknowledges that a majority vote is rarely a realistic goal, but it gives a number of examples of cases in which even a vote of 8 to 12 percent has been "sufficient to bring about real change." Elaborating on the

question of foundation voting on social issues, the report maintains that "a foundation's focus on uplifting the human condition suggests a duty to use its shareholder status to support proxy efforts urging companies to report on or adjust policies relating to social and environmental issues that are critical to the mission of the institution." As an example, it notes the major 2004 shareholder campaign on the African health pandemic. The report argues:

It is difficult to understand why more foundations holding pharmaceutical companies in their portfolios do not seize the moment to ensure that their shares are voted for such proposals, and also perhaps speak as concerned shareholders to management at annual meetings. Here is a golden opportunity to leverage shareholder status to engage corporate management where millions of lives hang in the balance. While advocacy

groups can be marginalized by management as outsiders with a separate agenda, shareowners are usually treated with respect and can gain access to upper management in a way advocacy groups may not.

Looking Ahead

Looking for the reasons behind the failure to vote proxies, the report points out that “board members and executive directors often come from a culture reinforced by traditional investment managers, in which traditional financial theories and practices have discouraged them from incorporating active proxy voting into a foundation’s mission.” An even more likely explanation, it posits, is “inertia,” because proxy voting is seen as “worthy” but “burdensome.” In fact, the report argues, voting need not be difficult or complicated. The report then runs through a procedure for developing guidelines, beginning with the identification of “a well-informed champion willing to lead the process.”

In arguing the case that proxy voting is in fact “less involved” than

many foundations believe, the report points out that “there are already numerous publicly available templates to emulate which have taken thoughtful positions on key corporate governance and social issues areas.” It suggests that foundations look at their boards’ political and philosophical makeup, and, if progressive, use as a model an SRI fund like The Calvert Group, or, if more conservative, consider the California Public Employees’ Retirement System’s detailed guidelines. The report points foundations to proxy voting services, including IRRC, and suggests that new proxy voters “start small” and “focus on issues critical to your mission.”

The report also refers the foundation world to those foundations that do vote their proxies. The appendix includes the guidelines of the Nathan Cummings Foundation (which is also sponsoring shareholder resolutions in 2004), Jessie Smith Noyes Foundation, Shefa Fund and the Boston Foundation. It notes that the Ford Foundation, Educational Foundation of America, Rockefeller Family Fund, Needmor Fund, Jennifer Altman

Foundation and William Bingham Foundation also vote their proxies.

Conrad McKerron of the As You Sow Foundation, who wrote the report, told IRRC that the effort had come about because he and several other officials of small foundations had been increasingly frustrated by the fact that the larger foundation world was ignoring the social responsibility movement, ranging from social screening to shareholder advocacy. They came to the realization, he said, that advocates needed to focus on getting foundations to pay attention to proxy voting for a start. Despite the “arcane character” of the subject, he said the report had gotten a good response, with 3,000 copies printed so far and “five or ten foundations” requesting enough copies for all the members of their boards. (The report can also be downloaded from websites at www.rockpa.org and www.asyousow.org.) McKerron said that those who were pressing the issue were planning to attend foundation meetings and get proxy voting put on the agendas.

—Carolyn Mathiasen

SEC Staff Sanctions Omission of GRI Proposals

With proxy statements now rolling off printers, the Securities and Exchange Commission staff has had to make the lion’s share of decisions in response to companies’ requests to omit resolutions under the shareholder proposal rule. As of March 24, the staff had sanctioned the omission of 39 social issues proposals. That number is in the same range as the 40 omitted at the same time a year ago, but the omissions this year have fallen a bit more heavily on resolutions fielded by experienced proponents. Particularly notable in the last month were the omissions of proposals asking compa-

nies to report under the Global Reporting Initiative guidelines. (For omissions earlier in the proxy season, see the February *Corporate Social Issues Reporter* pp. 6-8.)

In addition to the attrition of proposals as a result of SEC decisions, 71 proposals have now been withdrawn, compared with 72 by mid-March 2003. This year’s withdrawal numbers have been swollen by the success of the multi-pronged campaign to get companies to adopt sexual orientation anti-bias policies, in which 20 of 24 proposals have now been withdrawn. The GRI campaign, while recently producing the disappointing SEC decisions, has also had

a number of successes; 10 target companies have now agreed to provide much of the information requested.

Recent Omissions

The SEC staff has told **Albertson’s**, **Dean Foods**, **Lowe’s** and **Terex** that they can omit resolutions asking them to prepare sustainability reports based on the Global Reporting Initiative. The proposals, which were not identical, emanate from New York City, Domini Social Investments and the Calvert Group, respectively. A pending decision on a proposal to Kroger will presumably go the same way.

In allowing the omissions, the

Proxy Season

SEC staff agreed that the proposals fell under the exclusion allowed by section (i)(3) of the shareholder proposal rule, which allows companies to omit resolutions that are so vague that shareholders wouldn't be able to understand what they were voting on. Until recently, (i)(3) was rarely invoked for social issues proposals, but companies have cited it successfully in a variety of cases in the last three years. The SEC staff applied it to an early version of New York City's resolution asking companies to endorse the International Labor Organization's core principles for overseas production, a 2002 proposal asking companies to endorse the Voluntary Principles on Security and Human Rights in the Oil, Gas and Mining Industries, and 2003 proposals asking Johnson & Johnson to report on its actions under the Glass Ceiling Report and Smithfield Foods to report under the Global Reporting Initiative framework. In all of these cases, the staff agreed with companies that the various principles weren't adequately summarized.

This year's GRI proposals were modified from the 2002 Smithfield resolution, but companies still labeled them vague. As Terex wrote: "We would also like to point out that the proposal is vague and misleading, as it fails to convey to Terex stockholders the breadth and complexity of the GRI Guidelines or the cost involved in preparing such a report in such a short time period. The GRI Guidelines are a complex, intricate set of guidelines and are more than 100 pages long." Similarly, Kroger is arguing that the proposal contains only "an extremely brief and basic description of the voluminous and highly complex Guidelines."

Jennifer Woofter, who has been spearheading this year's largest GRI shareholder campaign, at Calvert, told IRRC, "Calvert is, of course, disappointed with the SEC decision to allow companies to exclude our GRI resolution. We are part of a group of

GRI filers, led by Dan Bakal of Ceres, working on next steps. These possibilities include a letter to the SEC, a meeting with SEC staff, or a new version of the GRI resolution designed to comply with rule 14a-8." Whether proponents can get around the (i)(3) problem to continue the GRI shareholder campaign next year is, at this point, unclear. If they can't, they have an option of using the request for a "sustainability report" proposed by church-affiliated shareholders since 2002; that resolution passed muster at **Wal-Mart** for 2004, although the company has had an unusually good track record over the years in getting resolutions tossed out at the SEC.

Several other recent decisions that went in favor of companies involve the ordinary business clause (i)(7) of the shareholder proposal rule, which allows companies to omit resolutions that deal with mundane business matters. **American International Group** was, like Chubb a month ago, allowed to omit its proposal on greenhouse gas reporting on grounds that, for an insurance company, such reporting gets into the question of risk assessment, which the SEC staff considers an ordinary business question. As expected, most of the other greenhouse proposals made it by the SEC this year, but **Ford** was allowed to omit greenhouse skeptic Carl Olson's resolution on ordinary business grounds because of "the specific method of preparation and the specific information to be included in a highly detailed report." **General Motors** though, was told it must include the same proposal. It cited i-3 and other shareholder proposal rule clauses, but not the ordinary business exclusion.

AIG was also the one company allowed to omit one of this year's 13 proposals asking for a report on the economic effects of the HIV/AIDS, tuberculosis and malaria pandemics; the SEC staff, again, felt that in the case of an insurance company the

requested report called for risk assessment.

Also out as ordinary business, because it specifically asked for "a range of projected costs of remediation or liability," was Trillium Asset Management's resolution to **Dow Chemical** on the cleanup of toxic sites.

The ordinary business exclusion also claimed the nascent campaign asking media companies to review data linking tobacco use by teens with tobacco use in youth-rated movies. The staff agreed that **Time-Warner** could omit the proposal under its longstanding view that "the nature, presentation and content of programming and film production" were ordinary business issues, and the proponents then withdrew it at **Viacom**.

Several other resolutions have been omitted because the staff agreed with companies that they were excludable under section (i)(12) of the shareholder proposal rule, which allows omission if a similar proposal had failed to receive enough support for resubmission in the last five years. This occurred with two drug pricing proposals at **Bristol-Myers Squibb** and resolutions on ILO standards at **Lowe's** and **Saks**.

The one company in the last month to win an argument that a resolution was moot was **Xcel Energy**, which persuaded the SEC staff that information posted on its website fulfilled the request for a greenhouse report.

Proponent Wins

Proponents also had plenty of good news from the SEC between mid-February and mid-March. As early decisions had indicated, the new resolutions from labor and other groups asking for comprehensive disclosure of contributions made with corporate funds have made it past the SEC, except in cases where companies had already agreed to include a different political contributions proposal. In recent decisions, **American Inter-**

national Group, ExxonMobil, First Energy, Safeway and Wells Fargo were told that they must include the resolution, though in some cases the proponents were directed to make minor changes. This leaves a whopping 32 versions of this proposal to come to votes in the 2004 proxy season.

Freeport McMoran must include New York City's new proposal asking it not to make any more payments to the Indonesian military and security forces until the government conducts a full investigation of August 2002 attacks on employees. New York had been particularly disappointed to see a 2003 resolution asking for a report on the company's relationship with the Indonesian security forces dismissed as moot. **ExxonMobil** must also include another new human rights proposal, a resolution from an individual asking it to report on its operations in Equatorial Guinea, which had been unflatteringly portrayed in an October 2003 60 Minutes report. The company argued in vain that that proposal was moot.

American International Group and **Cigna** struck out in attempts to omit standard proposals asking them to divest their portfolios of tobacco stocks. Cigna then worked out a withdrawal, and another of those proposals (see below) has been withdrawn, at **Principal**.

AT&T can't omit a new proposal from the Communications Workers of America asking it to conduct a special review of its executive compensation policies to determine whether they create an undue incentive to export jobs. The company argued unsuccessfully that the proposal constituted an ordinary business question.

Withdrawals

Corporate America continues to lead the way on changing EEO policies to outlaw discrimination because of

sexual orientation. All but four of 24 have been withdrawn after companies either demonstrated that they had such a policy or promised to initiate one. (See box, p.12) This leaves the proposal to come to votes only at **Alltel, ExxonMobil, NiSource** and **Fifth Third Bancorp**, and at Fifth Third management took no position on it.

Four more Global Reporting Initiative proposals were withdrawn in the last month—Domini's proposal to **Target**, the Methodist pension board's resolution at **Kerr-McGee** and Calvert resolutions to **EOG** and **Pioneer**. Calvert's Woofter told IRRC that in most cases, the companies at which it has withdrawn resolutions "are updating disclosure on their websites (rather than producing a separate report), and Calvert feels that this is an excellent first step towards comprehensive sustainability reporting."

Calvert has also withdrawn a resolution asking **Pulte Homes** to adopt smart growth principles. Woofter told IRRC: "The company has taken steps to address Calvert's concerns and has demonstrated a willingness to address the problems associated with suburban sprawl. Calvert will continue to work with Pulte on this issue and more information will be available once the company has put a formal policy into place."

Few of this year's big batch of political contributions proposals have been withdrawn, but Domini worked out agreements to receive the information it was looking for in its two media industry proposals, targeted at **Time Warner** and **Tribune**. Both companies will post information on their websites. The Service Employees Union withdrew after receiving information from **Wyeth**.

Four of this year's proposals on the AIDS pandemic have been withdrawn. With the omission at **AIG**,

that leaves eight to come to votes, though one of those, at **Coca-Cola**, will be supported by management in the proxy. In 2003, only two of 10 AIDS proposals came to votes; the other eight were withdrawn, and agreements were reached at some of the companies that are still slated to bring them to votes this year, including **Bristol-Myers Squibb, Caterpillar, ChevronTexaco, Merck** and **Pfizer**.

The 2004 AIDS resolution withdrawals are at **ExxonMobil, Ford, Johnson & Johnson** and **Eli Lilly**. ExxonMobil was one of the two companies where a proposal came to a vote last year. Dan Rosan of the Interfaith Center on Corporate Responsibility, a coordinator of the AIDS campaign, told IRRC that the proponents had found the company "very forthcoming" this time around, and that it had made significant concessions.

In other withdrawals, social investment firms withdrew a new resolution on water use at **Intel** after the company agreed to report on the Supercritical CO2 technology addressed by the proposal, and to engage in additional dialogue. Church groups withdrew a tobacco divestment resolution at **Principal** when the company agreed to eliminate tobacco stocks from its portfolios. People for the Ethical Treatment of Animals withdrew its animal testing proposal at **Johnson & Johnson** after the company provided assurances on a number of points. Two more MacBride principles resolutions have been withdrawn—at **Crawford** and **Marriott**—after the companies endorsed the principles. As discussed in the cover story, four greenhouse proposals have been withdrawn—at **American Electric Power, Cinergy, Reliant** and **TXU**, but the pace of withdrawals on that issue is running well behind the 10 withdrawals (out of 28 resolutions) achieved in 2003.

—Carolyn Mathiasen

Proponents Score Record Victories for Gays

CenterPoint Energy became the 18th company this year to agree to change its EEO policy to include sexual orientation in its non-discrimination statement, to communicate the new policy to employees and to incorporate into diversity training programs. The 18 withdrawal agreements so far this year—five more than last year and 14 more than in 2002—represent a record number for this issue area. The proponents of the resolutions say that peer pressure, public sentiment, state and

local laws and pragmatic business arguments seem to be the drivers of this trend.

Peer Pressure

Adam Kanzer, general counsel and director of shareholder advocacy for Domini Social Investments, told IRRC that peer pressure has helped to bring about the recent victories. “No company wants to be called a laggard or hung out there as a poster child on this issue,” he says. Kanzer’s point is born out by recent surveys by IRRC and the Human Rights Campaign of companies’ EEO policies. HRC tallies 362 companies in the Fortune 500 or 72 percent of the index include sexual orientation in their EEO policies, while IRRC counts 370 Standard & Poors 500 companies or 74 percent of the index with protections for gays. Among them, Wal-Mart, the world’s largest retailer and the largest private employer in the United States, made a decision to change its EEO policy to include sexual orientation in its EEO policy last year. The new attitude toward acceptance of gays, lesbians and bisexuals in corporate America largely is a reflection of broader changes in public sentiment. A Gallup Poll in May 2003 showed that 88 percent of respondents believe that gays and lesbians should have equal rights in terms of job opportunities.

Many of the companies, as it turned out, did not need much prodding to meet the proponents’ demands. Following the initial filing, Kanzer, says Masco quickly came back to Domini with a new EEO policy and said that management thought including sexual orientation was a good idea.

OGE Energy, a small utility in Oklahoma, needed some but not much convincing. Kanzer says that after hearing about other companies implementing similar policies in its industry and state and specific cases of gays,

lesbians and bisexuals having fears about coming forward to report discrimination without corporate policies protecting them in place, OGE Energy’s executives changed their minds. Kanzer says the specific cases helped refute arguments from many companies that their policies protect everyone, even if they don’t specifically mention sexual orientation.

“I believe we must have reached some sort of a tipping point when resistance to this policy is less productive than the benefits from adopting it,” Jim Gunning, committee chairman for the Unitarian Universalist Association’s SRI committee, told IRRC. “The effect of companies adopting this policy is cumulative,” he says. “When considering adoption, a primary aspect from the human resource point of view is competition. As more companies have adopted it, their competitors don’t want to be left behind as they compete for technical and managerial talent in the marketplace.” Proponents of sexual orientation proposals also argue that the policies help reduce turnover, boost morale and increase sales. A recent Witeck-Combs and Market Research poll estimated the annual buying power of gay, lesbian and bisexual adults at \$485 billion. The proponents also note that with increasing numbers of states and localities requiring such policies and many companies operating in one or more of these markets, it is important to be aware of the new laws and establish a uniform policy that opts for the higher benchmark.

Coordination

Coordination among the proponents and investors active in voting proxies has helped win victories too, says Patrick Doherty from New York City’s Office of the Comptroller. He explains that New York City has limited resources to file resolutions, follow up

Companies Changing Policies in 2004

The following 18 companies have agreed this proxy season to shareholder demands to include sexual orientation in their EEO policies*:

1. AEP Industries
2. American Standard
3. CenterPoint Energy
4. Centex
5. CSX
6. Dominion Resources
7. Dover
8. El Paso
9. Goodyear Tire & Rubber
10. HCA
11. Lear
12. Masco
13. OGE Energy
14. Smurfit-Stone Container
15. Southern
16. Steelcase
17. Stryker
18. Waste Management

*In addition, Trillium withdrew resolutions at Caremark and Kohl’s when it found the companies already had policies.

with companies, fight challenges at the SEC, get the word out to other investors on votes and attend annual meetings. It wasn't until the Unitarian Universalist Association approached with the offer to help on a major campaign, Doherty says, that the city considered filing the volume of proposals it has over the past two years. "Having the Unitarians represent us at many of the meetings has helped a great deal," he says. "It allows us to leverage the funds to pressure companies on an important issue without putting further strains on our staff or the city's budget."

Soliciting votes from key institutions also helped, the proponents say. Those efforts are reflected in the rising support levels for the resolutions. Support levels for EEO resolutions on sexual orientation have steadily risen in recent years, from 14.5 percent in 2001 to 36.2 percent last year.

Holding Out

A few companies, however, are still resisting, arguing that adding sexual orientation to their EEO policies dilutes the message of those policies and calls into question why other groups are not mentioned. Specifically, **NiSource** in its recently released statement of opposition says that it makes its decisions on hiring, firing, compensation and promotions based on merit, and that spelling out every specific class of

The Federal Government Removes Assurances for Gays

While most companies are increasing protections for gays and lesbians, the U.S. government appears to be rolling some back. In February 2004, the U.S. Office of the Special Counsel (OSC) removed references to sexual orientation-based discrimination from its complaint form, the OSC basic brochure, training slides and a two-page flier entitled "Your Rights as a Federal Employee." The OSC also removed from its website a press release issued by the OSC in June 2003 that announced the settlement of a case involving discrimination based on sexual orientation against an applicant to the Internal Revenue Service. The law, 5 USC 2302(b)(10), prohibits discrimination against federal employees or job applicants on the basis of off-duty conduct that does not affect job performance. Although there is no explicit reference to sexual orientation in the statute, it has long been interpreted to include sexual orientation. Executive Order 13087, issued by President Clinton on May 28, 1998, reaffirmed that position. The U.S. Office of Personnel Management continues to assert that the government has interpreted statute 2302(b)(10) "to prohibit discrimination based on sexual orientation. Sexual orientation means homosexuality, bisexuality or heterosexuality." The OSC's move last month therefore has outraged gay rights organizations, which are calling on the government to verify its position.

people who could be discriminated against distracts employees from its EEO policy's central message—**NiSource** does not discriminate, period. **Alltel** and **ExxonMobil**, which also have had and will again have similar proposals come to votes this proxy season, put forth similar arguments.

Doherty says New York City will continue to target these companies next proxy season, while Kanzer says that at the very least Domini will resubmit

its proposal to **NiSource** if it proves necessary and Domini has the requisite support and to Emerson Electric, which it missed this year due to an administrative snafu. Kanzer told IRRC that Domini did not file again at Emerson Electric because it originally thought it had received less than 10 percent support. As it turned out, the final vote tally came in just over 10 percent, so it plans to resubmit the proposal for next year.

—Peter DeSimone

ILO Says Globalization Can and Must Change

A recent report by a subsidiary body of the International Labor Organization (ILO) sounded a pessimistic note about the social impact of globalization to date. The report, released February 2004 by the ILO's World Commission on the Social Dimension of Globalization, warns that, "Seen through the eyes of the vast majority of men and women, globalization has

not met their simple and legitimate aspirations for decent jobs and a better future for their children." The 168-page report, *A Fair Globalization: Creating Opportunities for All*, says that globalization's "potential for good is immense," though, and it urges the world to make "building a fair and inclusive globalization" a top priority. The ILO says that poverty, sex discrimination, child labor and

environmental degradation are among the biggest problems globalization is causing.

Juan Somavia, director-general of the ILO, said this was the first time there had been a systematic attempt to deal with the social dimension of globalization with a diverse group of stakeholders at the table to build a consensus on the issue. The commission has 26 members, includ-

Greenspan Slams Tying Labor and Human Rights to Trade

Federal Reserve Chairman Alan Greenspan criticized tying trade agreements to labor or human rights standards, saying such moves would do more harm than good to the U.S. economy. In a speech to the House committee on education and the work force, Greenspan said holding other countries to higher standards of labor or human rights would be using “ethics as a guise for protectionism.” Greenspan explained that putting in such measures based on fears of U.S. jobs being exported to developing countries would actually do little to stop the trend. “If other countries retaliate, we would surely lose jobs,” he added. When challenged by Rep. Timothy Ryan (D-Ohio) to explain why it was prudent for the United States to tie respect for property rights to trade agreements but not human rights, Greenspan replied, “We’re not trading human rights; we’re trading property...trade is an economic issue.”

ing economists, politicians, sociologists, labor and human rights experts, business representatives and union members. “Making globalization fair and inclusive is difficult but do-able,” Somavia said in a press statement, “and is an urgent worldwide priority.”

The Problems

The commission examined a wide range of data during its deliberations and concluded, “The current process of globalization is generating unbalanced outcomes, both between and within countries.” While “wealth is being created,” the report notes, “too many countries and people are not sharing in its benefits.” There also was fear of threats to what one participant called “traditional institutions such as the family and the school,” and worries about unfair rules biased towards the powerful. Also among the widespread concerns was migration, in sending and receiving countries alike. In addition to the “brain drain,” which undermined efforts to build national capabilities, participants said poor migrants from all regions often found themselves—especially if they were women—driven into an illegal economy in destination countries.

The commission based its prognosis on current global economic trends, including the findings listed below.

- Since 1990, global GDP growth has been slower than in previous decades, the commission said, “at variance with the more optimistic predictions on the growth-enhancing impact of globalization.”
- Growth in per capita income has been unevenly distributed across countries, among both industrialized and developing countries, with only 16 developing countries growing at more than 3 percent annually between 1985 and 2000 and 55 developing countries growing at less than 2 percent during the same period—of which 23 reported declines.
- The per capita income gap between the richest and poorest countries is widening significantly, rising from a \$11,205 difference in 1960-1962 to a \$32,072 gap in 2000-2002.
- The economic performance of developing countries lagged increasingly behind that of industrialized countries between 1991 and 2001, creating a world in which 22 industrialized countries represent-

ing only 14 percent of the world’s population dominate about half the world’s trade and more than half of its foreign direct investment.

- Unemployment worldwide continued to increase in 2003, with the number of people out of work and looking for work in 2003 reaching more than 185 million, or about 6.2 percent of the total labor force, the highest unemployment figure ever recorded by the ILO. Especially hard hit were some 88.2 million young people aged 15-24—most of them in developing countries—with an unemployment rate of 14.4 percent;
- The informal economy—defined as persons without fixed employment or benefits—continued to expand in countries with low GDP growth rates as more people sought fewer available jobs. At the same time, the number of working poor—persons living on the equivalent of \$1 per day or less—held steady in 2003, at an estimated 550 million.
- Even though foreign direct investment flows to developing countries accelerated some during the 1980s and 1990s, the commission says that “investment remains highly concentrated in only about 10 of these countries.”
- Net flows of overseas development assistance have been decreasing and now average 0.23 percent of GDP, far below the UN’s suggested target of 0.7 percent of GDP.

Solutions

The commission proposes a series of coordinated national and international measures to improve the governance and accountability of the global economic system, including fairer rules for international trade, promotion of core labor standards, and job creation policies. Among its recommendations, the report says:

- 1 Governments need to take a more integrated view of global policies and to address the social dimen-

sion of globalization more effectively in major bodies such as the G8 and the Economic and Social Council of the United Nations.

- The multilateral trading system should substantially reduce unfair barriers to market access for goods in which developing countries have comparative advantage, especially textiles and garments and agricultural products.
- New rules on foreign direct investment and competition for it are needed to counter the “race to the bottom” brought about by the proliferation of global production systems.
- More effective and equitable mechanisms for debt resolution and for a fair allocation of responsibilities and burdens between

debtors and lenders need to be devised, alongside an acceleration of debt relief.

- Respect for labor standards defined by the ILO’s conventions and the UN’s Universal Declaration of Human Rights should be strengthened in all countries, especially within export processing zones.

What’s Next

The UN plans to host a series of multi-stakeholder dialogues designed to bring relevant actors together to work toward agreement on key issues, including migration, Foreign Direct Investment, trade and finance. The commission also argues that a broader forum is required, to bring together international organizations and other key actors and participants in global

debates on globalization and its social impact, and the design of global economic and social policies. It suggests that such a forum could also produce a regular “state of globalization report,” and promote the wide range of research and data collection that is needed to support policy development.

The ILO’s director-general will make more concrete proposals on how the ILO would like to proceed at the ILO’s International Labor Conference in June. The proposals also will be submitted to heads of governments, the secretary-general of the United Nations, the heads of the main international organizations, as well as other intergovernmental bodies, and to key non-governmental actors. Each will be invited to debate the recommendations and consider appropriate follow-up action in their own

Imbalances Persist at Non-U.S. Firms in N. Ireland

IRRC’s annual survey of multinational firm’s fair employment practices in Northern Ireland found that U.S. firms—at least in aggregate—continued to employ Catholics and Protestants at rates proportionate to their representation in the overall work force in 2003. However, one religious group or the other is underrepresented at about one-third of all the public and private U.S. firms, up from one-quarter in 2002. Nonetheless, U.S. employers appear to have achieved greater fairness than major non-U.S. employers. For the third consecutive year, IRRC found that Catholic employment at major non-U.S. employers lagged behind their representation in the work force, and nearly one-half of the firms studied appeared to have an underrepresentation of either Catholics or Protestants.

U.S. Employers

As shown in the accompanying table, the trend at U.S. employers continues

to be for a faster increase of Catholic workers and slower growth or attrition of Protestant workers. Between 2002 and 2003, Protestants gained 200 jobs and Catholics 550 at U.S. companies. Some of the changes have come from corporate acquisitions and divestitures, but they also appear to reflect larger shifts in the wider Northern Ireland work force. Recent Catholic gains can be traced at least in part to high tech firms, which tend to employ many young people and closely reflect the 50-50 Protestant-Catholic population of this younger age cohort. Overall, private sector and manufacturing employment has dropped, while service jobs have grown and construction has seen a modest increase.

Taken together, U.S. companies appear to employ Catholics at a rate slightly above Catholics’ representation among Northern Ireland workers. The economically active population in 2001 was 42.7 percent Catholic, a little less than the 44 percent figure for the overall population.

Firms with underrepresentation: Despite the overall balance at U.S. companies, either Catholics or Protestants appear to be underrepresented at about one-third of all U.S. firms with more than 10 workers. There are now 67 publicly held U.S. companies with subsidiaries (more than 50 percent ownership) or affiliates (10 to 50 percent ownership) employing more than 10 workers in Northern Ireland, and another 53 that are either privately held or have 10 or fewer employees in Northern Ireland. (Detailed information on companies in Northern Ireland is available from IRRC’s Northern Ireland Service.)

Many of these firms are taking affirmative action. Catholics appear to be clearly underrepresented at 17 companies and Protestants at 13. IRRC reached these conclusions after comparing each firm’s work force to a customized recruitment area, using detailed local census data and taking a number of company-specific factors into account.

Employment

Employees at U.S. Firms						
	2001		2002		2003	
Protestant	11,462	[57.9%]	10,273	[56.6%]	10,488	[55.7%]
Catholic	8,346	[42.1%]	7,873	[43.4%]	8,423	[44.3%]
Other	932		861		881	
No information*	1,188		896		1,086	
Total	21,928		19,903		20,878	

Percentages given do not include employees classified as "other" or "undetermined."

*Includes 360 in 2001, 310 in 2002 and 314 in 2003 at firms with 0-9 Catholics or Protestants.

Four companies that currently appear to have an underrepresentation of Catholics—**Sanmina**, **Caterpillar**, **AES** and **Baker Hughes**—seem to have made progress towards fair participation within the last five years. Minimal change has occurred at two—**GE's** Charles Hurst, which has grown, and **Nacco Industries**, which has cut dozens of jobs. At another four firms where Catholics currently do not seem to have fair representation—

DuPont, **AVX** and two **Chesapeake** plants—the Catholic proportion has dropped. DuPont and AVX contest IRRC's assessment. DuPont has cut its employment and is poised to spin off the Londonderry plant to a private U.S. firm this quarter, the AVX work force has gone up and down, and Chesapeake has expanded some. (Insufficient data were available to assess long-term representation trends at the other seven companies with current

Catholic underrepresentation.)

Just two of the companies that appear to have Protestant underrepresentation seem to have made progress since 1998—**Openwave Systems** and **Terex**. **Allstate** has stayed about the same. All the rest for which long-term representation trends can be examined—**Analog Devices**, **Bemis**, **Interface**, **Solectron's** Stream International, **Teleflex** and **Visteon**—have seen drops in Protestant representation. Of these firms, all but Analog Devices and Solectron have seen stagnant employment levels or layoffs.

Affirmative action: U.S. employers that are undertaking affirmative action are using a number of methods. Links with particular schools are most popular, but companies also are meeting with local community or church leaders. Equality activists point out that most of Northern Ireland investment and industry tends to be located in Protestant-dominated areas, making it more difficult for Catholics to achieve fair participation in the work force. Equality advocates also want companies to locate in deprived areas to put jobs close to those most in need. One company that has taken up this challenge is **TeleTech**, which opened a new e-commerce support call center in 2000 in the Duncairn Gardens area of North Belfast that is notorious for ongoing sectarian tension. Violence in 2002 prompted the company to rethink plans for expansion at the site, but it appears to have been reassured since and says it plans to stay on. The company received three-quarters of its funding from the Northern Ireland government.

Progress toward fair participation: Many of the 14 companies with formal affirmative action agreements are making solid progress towards their goals to achieve fairer work force participation; some are not. Among the companies where shareholder proposals are pending asking for commitment to the MacBride principles for fair employment is **Crane**, whose Stockham Valve operation has

Here Merges with Unite

The executive boards of the Hotel Employees and Restaurant Employees International Union (Here) and the Union of Needletrades, Industrial and Textile Employees (Unite) have unanimously agreed in principle to merge the two unions. Unite historically represents workers in the apparel and textile industries, and more recently has organized industrial laundries, distribution centers and workers in light manufacturing, while Here members are in the hospitality industries, working in hotels, airports, casinos, food service, and restaurants. The new union will represent 440,000 active members and more than 400,000 retirees throughout North America. The unions expect to ratify the agreement with a vote by rank-and-file members at a special joint convention in Chicago in July. The new union will be called Unite Here. Bruce Raynor of Unite will serve as General President, and Here's John Wilhelm will be President/Hospitality Industries. The two presidents will share executive, budgetary and personnel authority. Unite and Here have collaborated most recently in successfully negotiating a better contract for Yale workers, and in the effort to unionize H&M retail and distribution workers. Both also have been active in the past as shareholder proponents.

hemorrhaged workers and has seen an already low proportion of Catholics drop to 12 percent or less.

Discrimination complaints:

Since 1994, employees have lodged at least 213 formal discrimination grievances against the subsidiaries or affiliates of 50 of the U.S. companies with current operations in Northern Ireland. Throughout its history, though, the Fair Employment Tribunal has formally determined discrimination has occurred at only three U.S. firms—**BE Aerospace**, **Visteon** (spun off from Ford Motor in 2000), and an affiliate of **General Electric**. But 17 firms have settled a total of 39 cases with complainants, often but not always admitting in the process that discrimination had occurred and generally paying some form of monetary compensation to the complainant. There were 59 cases pending against 28 U.S. firms as of October 2003, slightly fewer than a year ago. Four or more cases are pending against subsidiaries of publicly traded companies **Caterpillar**, **General Electric**, **Interface** and **Nacco Industries**.

Non-U.S. Companies

Catholics again appear to be better represented at publicly traded U.S. firms in Northern Ireland than at the non-U.S. publicly traded firms surveyed by IRRC, although the difference between the two groups was about the same in

the last two years. With funding from the California Public Employees' Retirement System, IRRC surveyed a group of non-U.S. Calpers portfolio companies with operations in Northern Ireland for the third year in a row, during fall 2003. Ninety-five, owning 139 Northern Ireland employers, had ties to the region as of December 2003. These 95 parent companies employ nearly 60,000 people, 37.4 percent of whom are Catholics.

IRRC received complete or partial responses from 58 percent of the parent companies surveyed that have current operations, with companies reporting on the number of their employees by religion and job category and their fair employment policies. For survey respondents, IRRC assessed the percentage of Protestants and Catholics in each job category against an appropriate recruitment area, with more highly skilled categories generally assumed to draw from a broader geographic area. If a company did not respond to the survey, IRRC made best efforts to determine a reasonable recruitment area for the company as a whole, using detailed data from the 2001 census.

- In a shift from 2001 and 2002, far more firms in the sample appear to have problems with Catholic underrepresentation (32 employers) than with Protestant underrepresentation (only 14 employers). The change in assessments may be partially tied to

newly available census data that documents an overall increase in the Catholic population. Among the companies clearly lacking fair participation at present, there has been change in work force composition in the last several years at only about one-third of the companies for which sufficient data are available to examine long-term trends. At the other two-thirds, work force composition has stayed about the same or representation has become more one-sided.

- As in 2002, companies that responded to the survey reported using a full range of affirmative action measures prescribed by Northern Ireland's fair employment law, including the use of goals and timetables.
- Compared with U.S. firms, non-U.S. companies were a little more likely to have lost—and less likely to have settled—discrimination cases filed against them at the Fair Employment Tribunal.
- In a big jump over previous years, fully 37 firms now appear to have agreements to implement the MacBride principles, up from only 16 at yearend 2002. These numbers reflect an apparently growing willingness by non-U.S. firms to take a position on the principles and cooperate with IRRC's external monitoring process.

—Heidi Welsh