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# Vive la France! French Multinationals and Human Rights

*Ariel Colonomos\* & Javier Santiso\*\**

## ABSTRACT

This paper focuses on the analysis of corporate responsibility and also examines the question of international diffusion of norms in the context of globalization. It measures the influence of nonstate actors on foreign societies and states. It also draws on firsthand economic and financial empirical data, and then analyzes the reasons why French firms have

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adopted this discourse and integrated many practices prevalent in the US private sector. It shows that the globalization of production and capital has created in France a favorable context for the reinterpretation of corporate social responsibility, despite France's political and historical specificity with respect to human rights. As French companies have become increasingly transnational in their operations and reliant on nonresident capital, they have been more willing to take norms of corporate social responsibility into account. This economic context has had three major effects. First, it has influenced the construction of a domestic public space and new social networks—a market of virtue—based on cooperation among non-governmental organizations, norms activists and businesses. Second, it has influenced some firms in the definition of their international strategy. Finally, it has compelled the French state to react in economic regulatory terms. Nonstate actors are thus constructing new norms, shaping the economic public debate, compelling states to react, and setting new public policies.

## I. INTRODUCTION

The corporate social responsibility of multinational firms has become a crucial issue for both international relations and the international political economy. Initially restricted to corporate governance, the issue gradually came to include environmental and social questions, and now is expanding to cover other ethical matters such as labor legislation and human rights.

The many recent studies on this issue focus principally on the growth of the idea of corporate social responsibility in the United States and its effects on the international strategy of US firms.<sup>1</sup> These studies shed light on criticism to which these firms are subject, and examine the reasons behind this trend. They also describe the increasing ethical demands made, not of states, but of firms, which are now perceived as more capable to address a large range of complaints. The studies examine the regulatory consequences, both political and economic, of prescriptive and moral concerns. The focus has been on the emergence of a standard endogenous to the socially and culturally homogenous universe of US capitalism.

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*America* (2003); *Latin America's Political Economy of the Possible: Beyond Good Revolutionaries and Free Marketiers* (Cambridge, Mass.: MIT Press, 2006).

Both authors would like to thank the people that participated in this study and interviews. A very special thanks to Ignacio Briones for his tremendous and helpful research assistance.

1. While there are many general publications promoting the idea of corporate responsibility, sociological and economic interpretations based on empirical studies of the phenomenon are much rarer. See Kimberley Ann Elliott & Richard Freeman, *White Hats or Don Quixotes? Human Rights Vigilantes in the Global Economy* (Nat'l Bureau of Econ. Research, Working Paper No. 8102, Jan. 2001). Deborah Spar, *The Spotlight and the Bottom Line: How Multinationals Export Human Rights*, 77 *FOR. AFF.* 7 (1998).

The research presented here uses these different analyses as its starting point, and takes their findings into account while raising a new issue: the spread of ethical standards beyond US borders. The authors have attempted to understand how and why a foreign norm can have an impact on a non-US capitalist society. In this respect, the French case offers an excellent example. On one hand, France, via its economy and its firms, is now a full participant in the process of globalization. On the other hand, for historical and political reasons, France maintains a sovereign vision of economic regulation. Moreover, France's humanitarian activists are not accustomed to interpreting the actions of their economic players in terms of human rights. The tension this has created between the political and economic spheres raises some fundamental issues. From the point of view of an analysis of the spread of ideas, this case shows an interesting particularity. Though the notion of corporate social responsibility originated in the US, its emphasis on human rights gives it a French flavor. This give-and-take phenomenon is in many ways characteristic of globalization as a process for the reinvention of values and traditions.<sup>2</sup> In this study, and with respect to international relations, we seek to clarify the link between economic globalization and the globalization of ideas.

To carry out this study, the authors have analyzed the economic behavior of the firms that make up the Société Bourses Françaises (SBF) 120 stock market index, paying particular attention to their annual financial reports. These companies are the most significant in terms of market capitalization in France. They are also amongst the most internationalized in their operations. The authors based their approach on the empirical analysis of economic data available in annual financial reports, examining in particular the location of French firms abroad as well as the geographic origins of their capital. This statistical work has been supplemented by data from official government sources. In parallel to this empirical analysis, a series of interviews aimed at grasping the strategy of the main standard-setters, the nongovernmental organizations (NGOs), ethical rating agencies and consultants operating in this field were conducted. The authors have tried to understand the role of these moral activists<sup>3</sup> within the French context, their impact on the nature and methods of the assessment of firms, as well as the reasons behind the increasing power of these experts in recent years.

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2. Martha Finnemore & Kathryn Sikkink, *International Norm Dynamics and Political Change*, 52 INT'L ORG. 897 (1998).

3. A common inspiration, more or less implicit, informs thinking on these questions: HOWARD BECKER, *OUTSIDERS: STUDIES IN THE SOCIOLOGY OF DEVIANCE* (1963). For a study on the international impact of these activists, see KATHRYN SIKKINK & MARGARETH KECK, *ACTIVISTS BEYOND BORDERS: ADVOCACY NETWORKS IN INTERNATIONAL POLITICS* (1998).

By combining these two principal sources of information, interviews, and data, the authors have sought to answer three questions. First, how and why must French firms pay attention to values and systems of reference which are, *a priori*, foreign? In other words, how did this new vision of reality spread to France?<sup>4</sup> This question is central to the French example in two ways. French business has developed within the context of a nation which promulgated one of the first universal declarations of human rights, and the French state, at least in its rhetoric, has made human rights one of the cornerstones of its external relations. Yet, the political and economic spheres have traditionally been strictly differentiated in France. Human rights have hitherto been exclusively the concern of the former. However, in spite of this dichotomy, human rights concerns have spilled over to the realm of business. This dynamic testifies to an important social change.

This initial question leads to a second one: the relationship between the globalization of the economy and the globalization of ideas. What is the link between the transnationalization of the economy and the circulation of norms?<sup>5</sup> How, in the French case, did norms and debates whose outlines and terms were initially defined in the US come to be applied to French businesses? Third, the strategic role of moral activists must be analyzed in light of both their motivation and the opportunities present in their own national contexts.

When answering these questions, the authors look at the interplay between three dynamic forces: first, the economic and intellectual spread of norms and their consequent impact on French industry; second, the specificity of the French economic and humanitarian context; and third, the role of the state and the national legal framework.

## II. THE INTERNATIONAL CONDITIONS BEHIND THE EMERGENCE OF CORPORATE SOCIAL RESPONSIBILITY IN FRANCE

During the 1980s, in France as elsewhere, corporate social responsibility became a significant preoccupation of a great number of business practitioners. Various management studies from that period bear witness to this

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4. Many studies are devoted to the role of norms and international norm building. AUDIE KLOTZ, *NORMS IN INTERNATIONAL RELATIONS: THE STRUGGLE AGAINST APARTHEID* (1995); Richard Price, *A Genealogy of the Chemical Weapons Taboo*, 49 *INT'L ORG.* 73 (1995). A more recent study seeks to understand the development and the imposition of certain normative ideas, notably regarding violence. Ward Thomas, *Another Tool against Terror: Revisiting the Ban on Assassination*, *BOSTON GLOBE*, 28 Oct. 2001, at D1.
  5. Few works examine this aspect of the construction of international social reality. ROBERT O'BRIEN, ANNE MARIE GOETZ, JAN AART SCHOLTE, & MARC WILLIAMS, *CONTESTING GLOBAL GOVERNANCE: MULTILATERAL ECONOMIC INSTITUTIONS AND GLOBAL SOCIAL MOVEMENTS* (2000).

trend, as does the growth of the activity of consultants specializing in solving the social problems firms might face. In accordance with the renewal of French capitalism, stimulated by the excellent performance of the stock market in the mid 1980s, companies sought to convey a virtuous public image, and their sound financial health allowed them to allocate resources to this effect.

At the same time, corporate responsibility was considered to be an internal matter, primarily concerning the management of relations among a group's employees. Managerial literature in the 1980s stressed the importance of well-being within a company, yet French businesses were unaware of the "corporate social responsibility" theme which was by then well developed in the United States. There was thus a significant time lag between French firms, that paid no attention to this question, and US society, where corporate responsibility had been debated since the 1970s in many forums and publications. However, this US debate had little impact on US managerial practices.<sup>6</sup>

Toward the end of the 1990s, two phenomena contributed to the growing strength of the concern for ethics in French companies. Both phenomena are linked to the international scene. First, French businesses found themselves in legal trouble in the United States, and their troubles were amply reported in the French media. Their cases involved either merger-related insider trading or problems of a more political nature concerning cooperation between firms and dictatorial regimes condemned by humanitarian organizations.<sup>7</sup> Later, French businesses—this time in the banking sector—were investigated by US courts regarding their past as well as their political compromises. In 1997, France's largest banks became the targets of a class action lawsuit in New York. Action was brought against the banks for their activities during World War II, and the plaintiffs demanded US justice to restore their confiscated accounts. This case also attracted media attention and entailed, as in the case of Elf Aquitaine, the intervention of the French diplomatic service, which decided as a matter of sovereignty to defend these businesses.<sup>8</sup>

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6. During the 1970s, Milton Friedman took an unequivocal position in this debate, rejecting the basic premises of corporate responsibility. Milton Friedman, *The Social Responsibility of Business is to Increase its Profits*, N.Y. TIMES MAG., 13 Sept. 1970, at 122–26.

7. In 1997, a civil suit—*Doe v. Unocal*—was brought in the US District Court for the Central District of California for damages and injunctive relief against UNOCAL, Total, and the State Law and Order Restoration Council (SLORC), the ruling military junta in Burma. See *Doe I v. Unocal Corp.*, 963 F. Supp. 880 (C.D. Cal. 1997); *Nat'l Coalition Gov't of the Union of Burma v. Unocal, Inc.*, 176 F.R.D. 329 (C.D. Cal. 1997).

8. Ariel Colonos, *L'exigence croissante de justice sans frontières le cas de la demande de restitution des biens juifs spoliés* (Les Études du CERJ, Working Paper, July 2001).

Second, these cases took place within a broader context that made them of great consideration for those principally concerned. The 1990s saw the rise of the concept of transparency and corporate responsibility, first in the US, and then within the United Nations. Companies like Nike and Reebok battled with NGOs and the media to save their public image. At the United Nations, 1997 was marked by a significant number of forums exclusively focusing on the social responsibility of multinational corporations (MNCs). Inspired by anti-globalization movements as well as by President Clinton's 1996 initiatives, UN officials decided to launch the Global Compact program.<sup>9</sup> For the UN, it was a return to the kind of controversial debates of the 1970s, which had surrounded MNCs and led to sanctions against South Africa. By taking the initiative of a reform aimed at mastering the negative consequences of globalization, the UN prestige was boosted, thanks to a project whose very scope reinforced its stature and that was accorded with its own definitions of good governance.

The high media profile of the debates created a particularly sensitive climate and allowed French players, both NGOs and businesses, to measure fully the extent of the problem. The global publicity corporate responsibility received confirmed the activists' belief in the necessity for action at the local and national level. Both firms and NGOs were thus well informed about a situation which had evolved throughout the mid 1990s, most particularly 1997, yet the French diplomatic service—both on the political and commercial side—showed little concern of what was at stake.

A worldwide study on NGOs and their expectations, which concentrated on the NGOs decision to focus on the business arena, indicated that this change was already taking place by the mid 1990s.<sup>10</sup> From this time onward, most NGOs seemed to favor some degree of cooperation with businesses and abandoned their former confrontational attitude and hostility toward the business world. The NGOs' empathy with this conceptual universe meant that humanitarians and activists both firmly believed in the ripple effect of globalization and interdependence. Thus, both were encouraged to think that the effects of this new paradigm would soon be felt in France.

During the 1980s, several pioneering organizations in France were already extolling ethical shareholding.<sup>11</sup> Certain religious groups began to

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9. Interview with Georg Kell, Executive Director of the Global Compact Division, United Nations, in New York (Oct. 2001); Interview with Michael Doyle, Adviser to the Secretary General, United Nations, in New York (Jan. 2002).

10. GLEN PETERS & GEORGES ENDERLE, *A STRANGE AFFAIR: THE EMERGING RELATIONSHIP BETWEEN NGOs AND TRANSNATIONAL COMPANIES* (1998).

11. Interview with Sœur Nicole Reille, President of the Ethique et Investissement Association, in Paris (July 2001).

emulate the efforts undertaken by many US congregations to promote ethics in business.<sup>12</sup> They attempted to raise the awareness of both the public and the financial community regarding these concerns. In 1983, one of the first ethical funds was created under the impetus of Sister Nicole Reille and the Meeschaert Investment Company.<sup>13</sup> It must be noted that this mobilization had only a very limited impact initially, neither attracting potential investors nor gaining the attention of business. However, during the 1990s their activities grew exponentially. This ethical fund encouraged a move toward ethical shareholding on the part of other religious congregations, for example among religious movements who discovered the stock market while engaged in international development activities, such as the Catholic Committee Against Hunger and for Development.<sup>14</sup> This was also the case of other organizations and NGOs, which went on to create their own investment funds, as Action against Hunger did in 1994 partnering with Crédit Lyonnais Asset Management (later this firm merged with Crédit Agricole Asset Management).<sup>15</sup>

The signs of a new concern for business thus appeared in France during the second half of the 1990s. The concept was able to develop using existing structures within firms, and because of the growing attraction this question held for businesses. Managerial and humanitarian actors were inspired by the emerging US trend. This halo effect<sup>16</sup> (the mimicry by certain French organizations of their US models) is a direct result of the international context prevalent in the early 1990s, and the impact it had on French business actors, who became rapidly aware of the necessity for change. However, the French state demonstrated a lack of interest in the question.

### III. THE DOUBLE GLOBALIZATION OF FRENCH FIRMS

At the same time, during the last two decades, the French economy underwent a radical transformation. This contributed to making French

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12. ARIEL COLONNOS, *ÉGLISES EN RÉSEAUX-TRAJECTOIRES POLITIQUES ENTRE EUROPE ET AMÉRIQUE* (2000).

13. See Meeschaert Gestion Privée, available at [www.meeschaert.com/laune/home.jsp](http://www.meeschaert.com/laune/home.jsp).

14. Interview with Bernard Mazarschi, Managing Director, Comité Catholique Contre La Faim et Pour Le Développement (CCFD), in Paris (July 2001). See generally CCFD, available at [www.ccfcd.asso.fr/](http://www.ccfcd.asso.fr/).

15. On the development of ethical funds in France and Europe, see Javier Santiso, *Les marchés de la vertu: la promesse des fonds éthiques et des micro-crédits*, CERI RESEARCH IN QUESTION, Feb. 2003, available at <http://www.ceri-sciencespo.com/publica/question/qdr8.pdf>. At the end of 2001, France had about thirty ethical funds and was thus beginning to catch up to the European champions of ethical investment, the United Kingdom (fifty-four funds) and Sweden (forty-two); the United States had 175.

16. THE POWER OF HUMAN RIGHTS: INTERNATIONAL NORMS AND DOMESTIC CHANGE (Thomas Risse, Stephen Ropp, & Kathryn Sikkink eds., 1999).



firms very receptive to North American normative innovations. On the one hand, French firms were engaged in an accelerated process of internationalization by spreading their operations outside France and Europe. In addition, they made their presence in the North American market a top strategic priority. On the other hand, this internationalization of operations and commercial developments was accompanied by the opening up of the firms' capital to foreign investors, in order to speed up their international development. Therefore, the opening up to the US business world was twofold, via the imperatives of production and commercialization, and through company capital.

Within a few years, French firms underwent an impressive transformation in their international character. The amount of direct investment of French firms abroad currently represents USD 45 billion, almost 6 percent of the world total. In 1998, France became the fifth largest investor in the world, behind the US, UK, Germany, and Japan. The following year, France had risen to the third most important international investor, registering an increase of almost 150 percent in its Foreign Direct Investment (FDI) between 1998 and 1999. For the most part, this investment was directed toward European countries (51 percent of the total in 1999), but by 1999, the US alone absorbed 28 percent of French FDI.

Following the example of firms in other European Organisation for Economic Co-operation and Development (OECD) member states, French businesses were well on the path toward globalization. The index of transnational activity assessed by the UN Conference on Trade and Development (UNCTAD), aggregates three variables (assets, sales, and employment abroad as a percentage of the total). UNCTAD's assessment continued to increase in France, and by the end of the decade had even surpassed that of the US. In France, this index increased from 50.9 percent in 1990 to 59 percent in 1998. Although France does not top the list of European countries, the transnationality index of its firms recorded a strong progression during the 1990s. Thirteen to fifteen French firms figure among the top 100 transnational corporations worldwide as assessed by the UNCTAD index in 2000 and 2001.<sup>17</sup>

Other studies and indicators confirm this increasing internationalization of French firms throughout the 1990s. The *Templeton Global Performance Index*, produced by the University of Oxford, listed nine French groups in its classification from a sample of 214 global firms from fifteen countries, (behind the US with a total of 109 and Japan with forty-six firms). France is

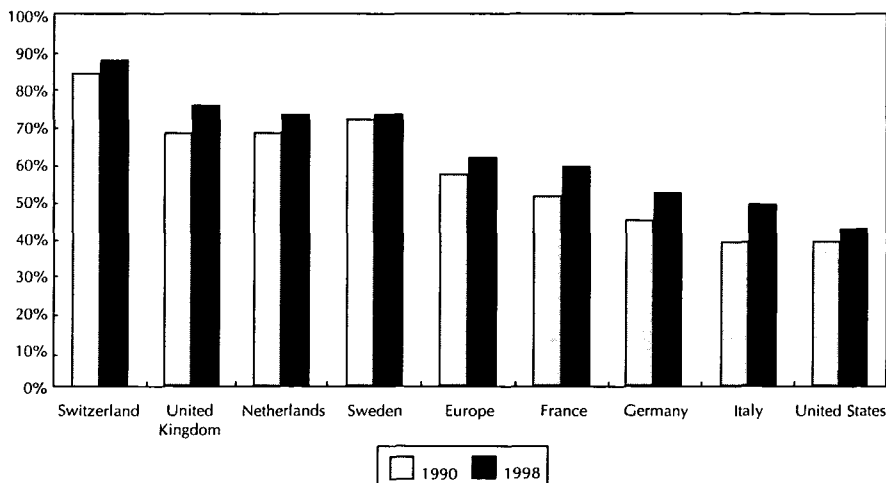
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17. UN CONFERENCE ON TRADE AND DEVELOPMENT, *WORLD INVESTMENT REPORT 2000*, available at [www.unctad.org/en/docs/wir00ove.en.pdf](http://www.unctad.org/en/docs/wir00ove.en.pdf); UN CONFERENCE ON TRADE AND DEVELOPMENT, *WORLD INVESTMENT REPORT 2001*, available at [www.unctad.org/en/docs/wir01ove.en.pdf](http://www.unctad.org/en/docs/wir01ove.en.pdf).

GRAPH I

**Increase in Internationalization of French and European Multinationals:  
UNCTAD Transnationality Index by Country in 1990 and 1998**

The acceleration of internationalization affecting French and European multinationals:  
country per country UNCTAD transnationality index for 2000.



Source: Authors' calculations based upon UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT (UNCTAD), WORLD INVESTMENT REPORT 2000: CROSS-BORDER MERGERS AND ACQUISITIONS AND DEVELOPMENT (2000).

ranked seventh in the world within this classification, with such groups as Saint Gobain, Carrefour, Promodès, Alstom, Peugeot, Renault, France Telecom, Vivendi, and Usinor (now Arcelor).<sup>18</sup>

This growing internationalization has entailed the spread of French firms, not just beyond French borders, but also out of Europe. The index of Europeanization of French corporations, measured either in assets or in turnover, has diminished by 2.2 points between 1993 and 1997, a tendency reflected in other European countries.<sup>19</sup>

Work carried out by Barclays Global Investors (BGI), one of the principal financial institutions investing in global firms, corroborates this

18. Michael Gestrin, Rory Knight, & Alan Rugman, *The Templeton Global Performance Index*, Economic and Social Research Council (Apr. 2000), available at [www.templeton.ox.ac.uk/pubinfo.asp?PubID=309](http://www.templeton.ox.ac.uk/pubinfo.asp?PubID=309).

19. ROB VAN TULDER, DOUGLAS VAN DEN BERGHE, & ALLAN MULLER, ERASMUS SCORECARD OF CORE COMPANIES: THE WORLD'S LARGEST FIRMS AND INTERNATIONALIZATION 65 (2001).

**TABLE I**  
**Global European Firms in the Top 100:**  
**UNCTAD Composite Transnationality Index (TNI), 2000**

|                         | <i>Country</i> | <i>TNI (in %)</i> |
|-------------------------|----------------|-------------------|
| Nestlé                  | Switzerland    | 94.20%            |
| Electrolux              | Sweden         | 92.70%            |
| Solvay                  | Belgium        | 92.30%            |
| BAT                     | UK             | 91.00%            |
| Unilever                | Netherlands/UK | 90.10%            |
| Holderbank              | Switzerland    | 90.50%            |
| ABB                     | Sweden         | 89.10%            |
| SmithKline Beecham      | UK             | 82.30%            |
| SCA                     | Sweden         | 80.80%            |
| L'Air Liquide           | France         | 77.00%            |
| Akzo Nobel              | Netherlands    | 76.80%            |
| Diageo                  | UK             | 76.70%            |
| Michelin                | France         | 76.00%            |
| Glaxo                   | UK             | 75.50%            |
| BP Amoco                | UK             | 74.90%            |
| Lafarge                 | France         | 71.30%            |
| ABB                     | Switzerland    | 69.10%            |
| Rhone Poulenc           | France         | 69.10%            |
| Total Fina              | France         | 69.00%            |
| Danone                  | France         | 64.60%            |
| LVMH                    | France         | 62.10%            |
| Renault                 | France         | 61.80%            |
| Saint Gobain            | France         | 58.70%            |
| Alcatel                 | France         | 59.10%            |
| Royal Dutch Shell       | Netherlands/UK | 58%               |
| Carrefour               | France         | 56%               |
| Volkswagen              | Germany        | 54%               |
| Elf Aquitaine           | France         | 52%               |
| Daimler Chrysler        | Germany        | 50.40%            |
| Suez Lyonnaise des Eaux | France         | 45.60%            |
| Peugeot                 | France         | 44.20%            |
| Fiat                    | Italy          | 31.20%            |
| Vivendi                 | France         | 31.50%            |
| Telefonica              | Spain          | 29.90%            |
| RWE                     | Germany        | 22.10%            |

Source: Authors' calculations based upon UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT (UNCTAD), WORLD INVESTMENT REPORT 2000: CROSS-BORDER MERGERS AND ACQUISITIONS AND DEVELOPMENT (2000).

analysis of the growing internationalization of French and European firms during the 1990s. Based on research intended to identify the nature of these "global firms," the results indicated that at the beginning of 1998 only 12 percent of the firms could be considered global, according to the criteria employed. Yet by the end of 1998, the proportion of global firms had in fact doubled (24 percent). The globalization of firms is notably striking in

continental Europe, where global firms constitute almost 40 percent of market capitalization.<sup>20</sup>

Data from the Ministry for the Economy, Finance and Industry also confirm this acceleration in the internationalization of French firms during the 1990s.<sup>21</sup> This internationalization comprises not only the growth of external sales, but also, takes into consideration the increasing localization of production facilities abroad. North American companies are the obvious leaders in this respect (almost 300, about 40 percent of the sample), followed by European firms (197 in total, roughly 26 percent of the sample). France is among the leaders, ranking fifth in this classification measuring the international spread of business subsidiaries. Thirty-seven French firms were among the 750 world leaders (5 percent of the total), and many of those firms possessed subsidiaries in more than fifteen countries.

The growing internationalization of French business has considerably increased French companies' exposure to North American influence. At the end of the 1990s, the major French firms made a significant part of their sales not only outside France, but also outside Europe, more particularly in

**TABLE II**  
**Country of Origin of Most-Globalized Groups, 2000**

|                | <i>Number of Groups<br/>in Top 50</i> | <i>In %</i> | <i>Number of Groups<br/>in Total of 750</i> | <i>In %</i> |
|----------------|---------------------------------------|-------------|---|-------------|
| United States  | 13                                    | 26%         | 298   | 39%         |
| Netherlands    | 7                                     | 14%         | 15  | 2%          |
| Switzerland    | 7                                     | 14%         | 17  | 2%          |
| Germany        | 5                                     | 10%         | 55  | 7%          |
| United Kingdom | 5                                     | 10%         | 65  | 9%          |
| France         | 3                                     | 6%          | 37  | 5%          |
| South Korea    | 2                                     | 4%          | 15  | 2%          |
| Italy          | 2                                     | 4%          | 8   | 1%          |
| Japan          | 2                                     | 4%          | 169   | 22%         |
| Sweden         | 2                                     | 4%          | 2   | 0%          |
| Norway         | 1                                     | 2%          | 2   | 0%          |

Source: External Economic Relations Directorate, Ministry of the Economy, Finance, and Industry (France) (2000) (using the Dun & Bradstreet WorldBase databases).

20. Lucie Chaumeton & Kevin Coldiron, *Global Companies—A New Asset Class?* (Equity Research Group, Barclays Global Investors, Working Paper, 1999).
21. François Benaroya & Edouard Bourcieu, *Mondialisation des Grands Groupes: de Nouveaux Indicateurs*, *ECONOMIE & STATISTIQUE*, No. 363-364-365 (2003), at 145–65, available at [www.insee.fr/fr/ffc/docs\\_ffc/es363-364-365h.pdf](http://www.insee.fr/fr/ffc/docs_ffc/es363-364-365h.pdf). See also, François Benaroya & Edouard Bourcieu, *Les Grands Groupes Français face la Mondialisation*, *Bleues de Bercy* No. 196-97 (Dec. 2000), at 1–12.

TABLE III  
Major Global French Groups

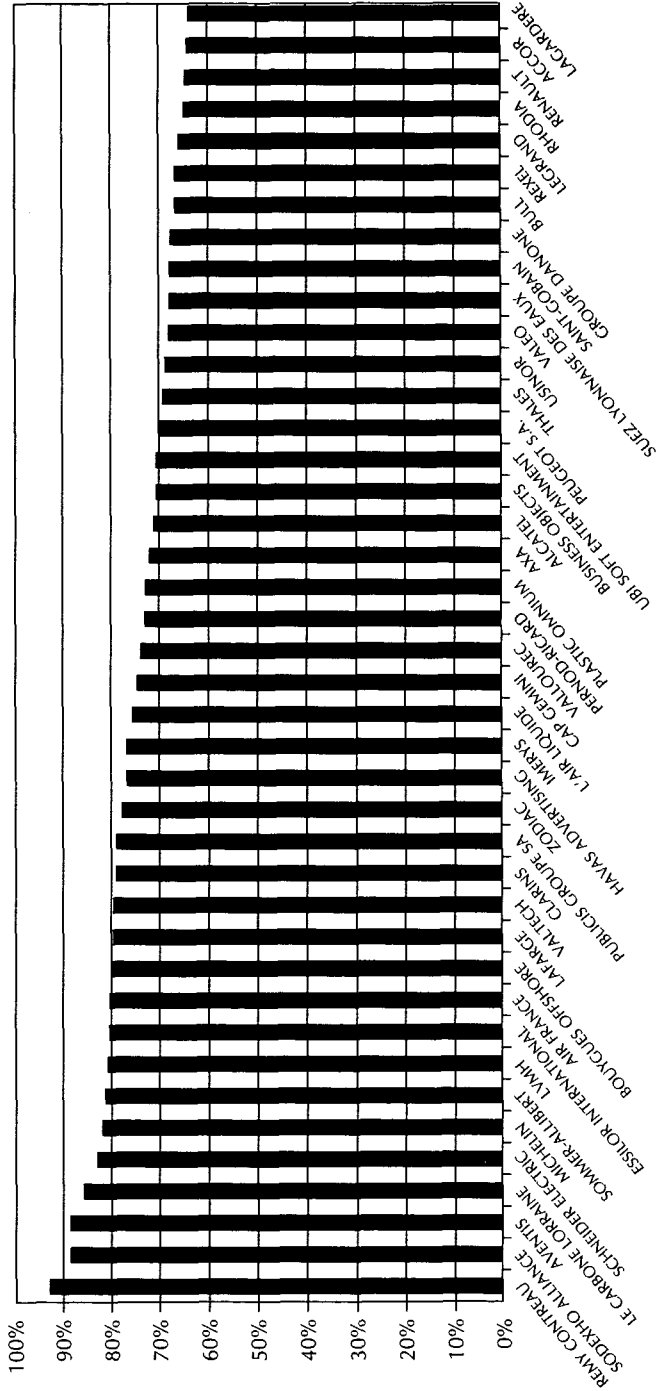
| <i>Name</i>              | <i>Ranking</i> | <i>Number of Subsidiaries</i> | <i>Number of Countries in which Group Invests</i> |
|--------------------------|----------------|-------------------------------|---|
| Total Fina               | 1              | 520                           | 44  |
| Lafarge                  | 2              | 327                           | 28  |
| Michelin                 | 3              | 98                            | 25  |
| Louis Dreyfus            | 4              | 89                            | 19  |
| Usinor                   | 5              | 283                           | 24  |
| Renault                  | 6              | 255                           | 25  |
| Elf Aquitaine            | 7              | 448                           | 44  |
| Peugeot                  | 8              | 237                           | 27  |
| Axa                      | 9              | 310                           | 21  |
| LVMH                     | 10             | 276                           | 35  |
| Mousquetaires            | 11             | 303                           | 9   |
| France Telecom           | 12             | 273                           | 19  |
| Société Générale         | 13             | 374                           | 32  |
| Financière d'Ivry        | 14             | 21                            | 6   |
| Carrefour                | 15             | 118                           | 14  |
| Caisse mutuelle agricole | 16             | 152                           | 14  |
| Gaz de France            | 17             | 50                            | 7   |
| Foncière Euris           | 18             | 43                            | 5   |
| CCF                      | 19             | 285                           | 21  |
| Dexia                    | 20             | 120                           | 10  |
| Crédit Lyonnais          | 21             | 203                           | 26  |
| EDF                      | 22             | 131                           | 13  |
| Air France               | 23             | 34                            | 6   |
| BNP                      | 24             | 824                           | 39  |
| Airbus                   | 25             | 14                            | 4   |
| SNCF                     | 26             | 188                           | 8   |
| La Poste                 | 27             | 62                            | 8   |
| CNCA                     | 28             | 315                           | 26  |

Source: External Economic Relations Directorate, Ministry of the Economy, Finance, and Industry (France) (2000) (using the Dun & Bradstreet WorldBase databases).

the United States. Nearly 80 percent of the SBF 120 firms were active in the US in 2000. US sales accounted for a significant part of the activities volume for some, and for 10 percent of them, sales in the United States represented more than 50 percent of their foreign takings.

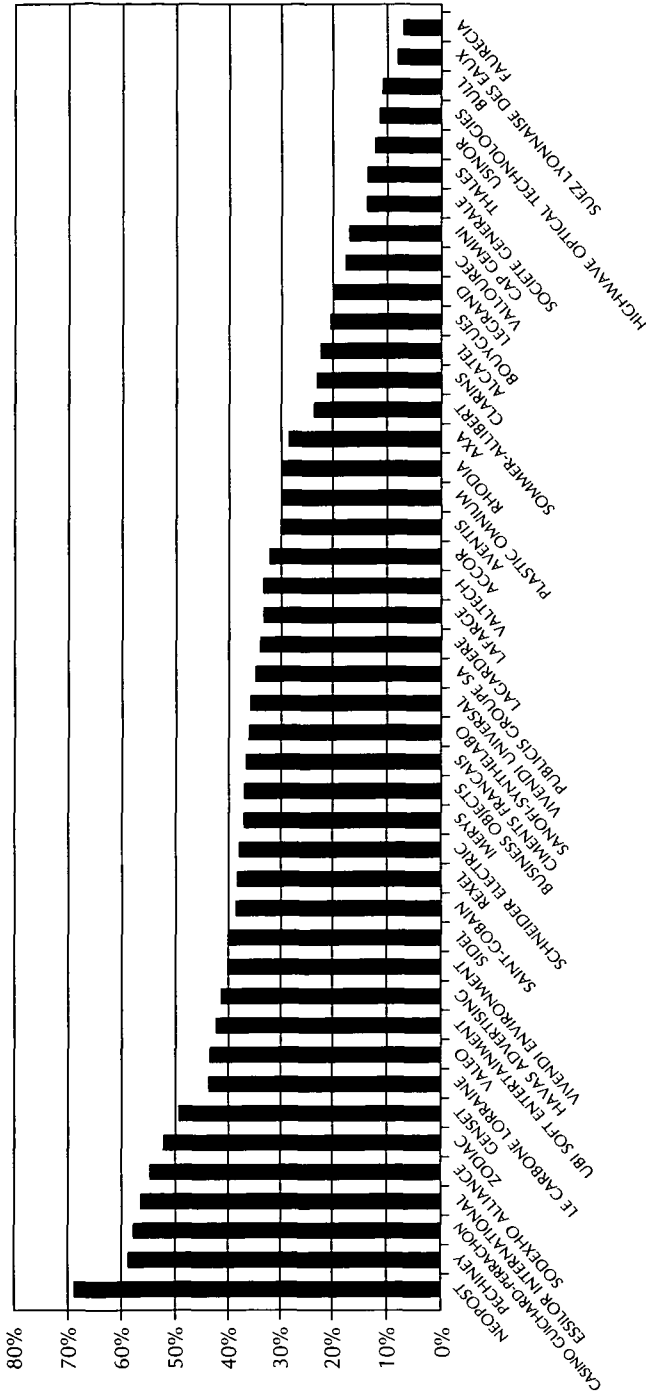
This "Americanization" of French firms in real economic terms has been reinforced by a second phase of "Americanization" in financial terms. A survey conducted in 2001, by the North American consulting firm Georgeson Shareholder, specializing in research and shareholder representation, examined the growing internationalization of the shareholdings of French and European corporations. The subjects of the survey were French companies included in the CAC 40 and European firms from the Euro Stoxx 50. This survey confirmed the increasing power of nonresident shareholders

**GRAPH II**  
**SBF120 Firms: Turnover Outside France as a Percentage of Total Turnover (2000)**



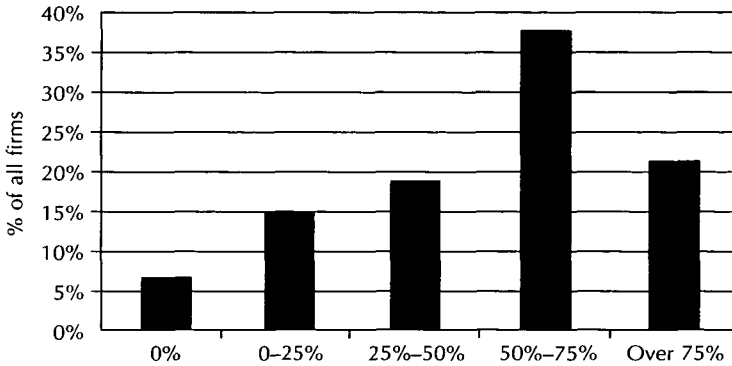
Source: Authors' calculations from the 2000 annual financial reports of SBF 120 companies.

GRAPH III  
SBF 120 Firms: North American Turnover as a Percentage of Foreign Turnover in 2000

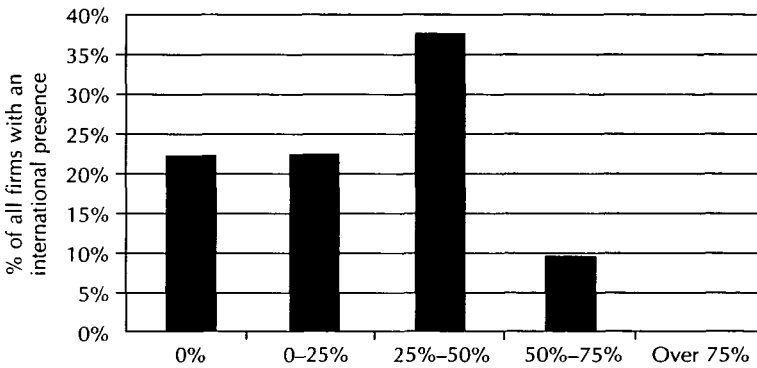


Source: Authors' calculations from the 2000 annual financial reports of SBF 120 companies.

**GRAPH IV**  
**SBF 120 Firms: Turnover out of France/Total Turnover (Percentage)**



**SBF 120 Firms: North American Turnover as a Percentage of Foreign Turnover**



Source: Authors' calculations from the 2000 and 2001 annual financial reports of SBF 120 companies.

in the capital of French companies. For some of these groups, such as Total Fina Elf, Vivendi Universal, Alstom, Vivendi, Axa, EADS, Alcatel or Lafarge, nonresident shareholders hold more than 50 percent of the firm's capital.

But part of the real interest of this study was its attempt to assess, not just nonresident, but specifically US shareholding in the capital of French firms. Anglo-American shareholders are relatively significant in about 25 percent of the SBF 120 companies. In 2000, all of these corporations, with two exceptions—the groups belonging to the arms industry—published an annual report or had a website that emphasized the themes of corporate



governance, sustainable development, or corporate social responsibility. The subgroup of French firms with a high level of Anglo-American investment in their capital are particularly active in these different fields. Thus ethical, social, environmental, and corporate governance standards enjoy a particularly high visibility in the dozen or so groups where Anglo-American shareholders control more than 20 percent of the firm's total capital. This is the case with regard to Alstom, Alcatel, Lafarge, Axa, Danone and Vivendi. These groups are also those that figure in among the highest index levels of transnationality within the UNCTAD classifications.

They are also among the first to have developed a voluntary policy regarding environmental and social issues. As early as the first half of the 1990s, the hotel group Accor (in 1993), the semiconductor manufacturer, ST Microelectronics (in 1994), the Suez Group (also in 1994), L'Oréal (in 1995), Vivendi (in 1995), and Danone (in 1997) set up programs in these areas. These businesses not only drew up the blueprint for the emergence of an ethical agenda in France, essentially focused on environmental and social issues, but also identified those businesses that might be the most receptive to ethical questions. From 2000 onwards, these programs grew in scale. For example, Danone had a program that examined ecological conservation issues and sustainable development, as did the cement manufacturer Lafarge, that signed a global partnership with WWF, the global conservation organization. All these companies are among the most internationalized businesses in France, either in terms of geographic spread or shareholding.

With a growing part of their turnover made outside of France and Europe, and with Anglo-American funds ever more present in their capital structure, French firms became singularly receptive over the course of the 1990s to developments in North America, adopting and adapting to the emerging normative standards. To a large extent, the motivations of French companies echoed those of their North American counterparts. Worries about public image and policies aimed at establishing loyalty, both internally (mobilizing staff around a cause) and externally (among consumers as much as among investors), drove this conversion. The "ethical risks" stemming from a media campaign against a firm, or its products, became a real concern for French businesses. As some cases have shown, a firm's reputation can be badly damaged, and the consequences for share value are potentially severe. In 2001, for example, the share price of Talisman Energy fell by 15 percent following the publication of a Canadian government study confirming NGO allegations of human rights violations in Sudan, where the company had operations.

**TABLE IV**  
**The Growing Influence of Anglo-Saxon Investors in France:**  
**Anglo-Saxon Shareholders in French SBF 120**

| <i>Company</i>            | <i>Non resident<br/>Shareholders</i> | <i>North<br/>America<br/>and UK</i> | <i>Social Reports:<br/>Sustainable<br/>Development<br/>Corporate<br/>Governance, etc.</i> | <i>Transnationality<br/>Index<br/>UNCTAD</i> |
|---------------------------|--------------------------------------|-------------------------------------|---|--|
| Alstom                    | 61.50%                               | 47%                                 | Yes   | na   |
| Alcatel                   | 50%                                  | 40%                                 | Yes   | 65.60%                                       |
| Cap Gemini                | 64%                                  | 35%                                 | Yes   | na   |
| Aventis                   | 58%                                  | 32%                                 | Yes   | 54%  |
| Lafarge                   | 50%                                  | 29%                                 | Yes   | na   |
| Axa                       | 52%                                  | 28%                                 | Yes   | na   |
| Lagardere                 | 47.50%                               | 27%                                 | Yes   | na   |
| Danone                    | 47%                                  | 26%                                 | Yes   | 67.80%                                       |
| Vivendi Universal         | 61.60%                               | 24.60%                              | Yes   | 34%  |
| Michelin                  | 48.00%                               | 24.00%                              | Yes   | 73.80%                                       |
| Saint-Gobain              | 40%                                  | 22%                                 | Yes   | na   |
| Schneider Electric        | 34%                                  | 22%                                 | Yes   | na   |
| TotalFina Elf             | 65%                                  | 20%                                 | Yes   | 70.30%                                       |
| Valéo                     | 35%                                  | 19%                                 | Yes   | na   |
| Sanofi-Synthélabo         | 27.20%                               | 18.10%                              | Yes   | na   |
| Bouygues                  | 25%                                  | 17%                                 | Yes   | na   |
| Accor                     | 40.80%                               | 16.90%                              | Yes   | na   |
| Air Liquide               | 29.30%                               | 15.50%                              | Yes   | 76.90%                                       |
| Renault                   | 19%                                  | 14%                                 | Yes   | 58.20%                                       |
| Carrefour                 | 30.50%                               | 12%                                 | Yes   | 34.70%                                       |
| Dexia                     | 74.30%                               | 11.20%                              | Yes   | na   |
| Thalès                    | 13.90%                               | 11.00%                              | No  | na   |
| Sodexho Alliance          | 19.10%                               | 10.50%                              | Yes   | na   |
| LVMH                      | 17.80%                               | 8.10%                               | Yes   | na   |
| AGF                       | 73.40%                               | 7.90%                               | Yes   | na   |
| Casino Guichard           | 9.40%                                | 5.70%                               | Yes   | na   |
| EADS                      | 50.90%                               | 5.50%                               | No  | na   |
| L'Oréal                   | 20%                                  | 6.50%                               | Yes   | na   |
| Crédit Lyonnais           | 35%                                  | 5%                                  | Yes   | na   |
| France Telecom/Orange     | 10%                                  | 4%                                  | Yes   | na   |
| Pinault Printemps Redoute | 30.50%                               | nc                                  | Yes   | na   |
| BNP Paribas               | 40.00%                               | nc                                  | Yes   | na   |
| Suez Lyonnaise des Eaux   | nc                                   | nc                                  | Yes   | 49.10%                                       |
| Peugeot                   | nc                                   | nc                                  | Yes   | 44.70%                                       |
| Usinor                    | nc                                   | nc                                  | Yes   | 43.50%                                       |

Source: Authors' calculations based upon LE MONDE (15 June 2001); Georgeson Shareholder (2001), available at [www.georgeson.com/](http://www.georgeson.com/); Observatoire sur la Responsabilité Sociétale des Entreprises (2001); and 2001 annual financial reports of SBF 120 companies.

#### IV. THE PROFESSIONALIZATION OF THE MORAL EXPERTISE FIELD<sup>22</sup>

During the 1990s, the growing internationalization of French firms was accompanied by a professionalization of the moral evaluation of these firms. From 1997, the main professional categories existing in the United States in this field began to make their appearance in France. This was a time when these issues began to receive considerable attention in the US media, particularly in the textile and oil sectors. There was synchronization between the increasing internationalization of business and the development of moral expertise in civil society.

Recent studies on moral activists have examined the role of transnational movements and their impact on distant societies. The studies do this by looking at the role of NGOs and experts in Southern and Eastern countries.<sup>23</sup> Conversely, here the authors have attempted to obtain a better idea of the moral activists' influence on other Northern countries, whose businesspeople have been encouraged to adopt new practices when dealing with their partners in the South or the East. Comprehending the distinctive nature of human rights based moral activism and its impact on French firms requires an understanding of the strategies of French activists in this field. The NGOs, religious movements, and journalists who are particularly active in moral assessment in France are primarily French. Yet because human rights is traditionally a political, not a commercial concern, any movement criticizing business on these grounds has tended to be radical and confrontational in nature.

The British and US approach of investigating a firm in order to urge it to modify its behavior, without questioning either its right to existence or capitalism in general, was traditionally foreign to the French critical tradition. However, a professional field opened up and took hold as the idea of moral assessment grew. Certain partnerships between actors who otherwise had nothing in common, bore witness to these changing circumstances. Those who began rating firms were the real pioneers of moral assessment, and began to promote the idea of evaluating firms from a

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22. There is a considerable body of work that analyzes the work of experts in international relations and designates their function by the name "epistemic community." Peter Haas, *Introduction: Epistemic Communities and International Policy Coordination*, 46 INT'L ORG. 1 (1992). Contrary to this approach, the authors' analysis shows the diversity of values within one profession, the formation of coalitions and the competition among different areas of expertise. Their examination of experts shows that these knowledge coalitions have a role to play in altering belief structures. Experts have a normative function, and their science is not neutral.

23. THE POWER OF HUMAN RIGHTS, *supra* note 16. Javier Santiso, *Diffusion of Ideas and International Relations*, in THE NEW INTERNATIONAL RELATIONS: THEORY AND PRACTICE 126 (Marie Claude Smouts ed., 2001).

human rights perspective. The best known of these, Arèse, created by a woman whose management and financial experience was further influenced by her time in the United States, was an innovator in this domain, not just in France, but also in Europe (later Arèse disappeared and two other agencies were created, Arèse becoming Vigeo and the former founder of Arèse moving to Fitch Core Ratings).<sup>24</sup> Arèse took full advantage of its early position in the untouched French market. Although the rating firm structure was then entirely unknown in France, Arèse created links to a number of other corporate and activist players. Arèse imported into France an idea that had emerged in the Anglo-American world, and then applied it in a market without competitors. In June 2001, and in parallel with the launch of other competing ethical indexes (in particular that of the Financial Times Stock Exchange (FTSE) and FTSE4GOOD in July 2001),<sup>25</sup> Arèse inaugurated its own ethical index, the Sustainable Performance Index (SPI), in partnership with the index provider Stoxx. Within a few weeks the French and European landscape of ethical indexes had been considerably enlarged, and other institutions launched their own versions. For example, the Dow Jones partnership with the Swiss firm SAM.<sup>26</sup>

The development of socially responsible investment via Arèse is paradoxical. Arèse grew out of, and was initially supported by, the Caisse des Dépôts et Consignations (CDC). At its origins in 1816, the CDC was a public financial institution, both specific to and representative of the French economic landscape, which blends the public and private spheres and supports public service with an economic vocation. Initially, the CDC's principal mission was to manage private deposits seeking a certain level of security and to use them to finance social and economic projects of public interest. During the twentieth century, the CDC's range of attributions and missions grew. Since the beginning of the twenty-first century, it has taken

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24. Interview with Sarj Nahal, Financial Analyst, Arèse, in Paris (July 2001). See generally Arèse, Corporate Social Responsibility Ratings, available at [www.arese-sa.com](http://www.arese-sa.com).
  25. Part of FTSE4GOOD's profits are donated to UNICEF. Interview with Marc Russell-Jones, Director, FTSE France, in Paris (May 2001). See generally FTSE Group: The Index Company, available at [www.ftse4good.com](http://www.ftse4good.com).
  26. See Dow Jones Sustainability Index, available at [www.sustainability-indexes.com](http://www.sustainability-indexes.com). This index, launched in 1999 but reformulated in 2001, is essentially made up of firms from OECD member states. In October 2001, the breakdown of firms in the Dow Jones Sustainability Group Index was as follows: 52 percent European, 40 percent US, and 8 percent from the Asia-Pacific region. As of October 2001, thirty licenses to use this index had been subscribed to by European managers. French firms made up 12 percent of this global index. See Dow Jones Sustainability Index, Monthly Update, October 2001, available at [www.sustainability-indexes.com/djsi\\_pdf/news/MonthlyUpdates/DJSI\\_Update\\_200110.pdf](http://www.sustainability-indexes.com/djsi_pdf/news/MonthlyUpdates/DJSI_Update_200110.pdf). This firm produces a great deal of research on ethical themes of relevance to the firms analyzed. See, e.g., SAM (SUSTAINABLE ASSET MANAGEMENT), CHANGING CLIMATE IN THE ENERGY SECTOR—A NEW WAVE OF SUSTAINABLE INVESTMENT OPPORTUNITIES EMERGES (2002), available at [www.sam-group.com/downloads/studies/Energy\\_Study\\_e.pdf](http://www.sam-group.com/downloads/studies/Energy_Study_e.pdf).

advantage of the reshaping of the French banking and financial scene to develop its investment banking activities.<sup>27</sup>

The CDC played a major role in the creation of Arèse. It was also one of the first French institutions to innovate in the field of ethical investment by creating, under the impetus of its manager for international activities, an ethical investment fund called Nord-Sud Développement (North-South Development) in 1985. The fund was created to contribute to the development of emerging nations.<sup>28</sup> Following this, the institution increased its US contacts and organized several visits in 1995 to the United States, led by the then manager for the pensions and provident fund, Bernard Cochemé. These initiatives fit well with CDC's longstanding tradition of savings schemes with a social dimension. These schemes are popular in other French savings institutions such as the Caisse d'Épargne, particularly in Northern France.

The CDC also assisted in the creation of Novéthïc in 2001, the first portal in France to be devoted to sustainable development and ethical investment.<sup>29</sup> Cochemé, who in the interim had become Director of the CDC, took over the reins of the UN pension fund in early 2001,<sup>30</sup> thereby forging a link between a French public financial institution and the growing interest of international organizations in corporate social responsibility.

The belief that the French market was becoming increasingly receptive to ethical and human rights concerns oriented the strategies of different activists. Inspired and convinced by the US and British experience, traditional NGOs, such as Amnesty International,<sup>31</sup> adapted their vision and approach. Since the late 1990s, Amnesty France has developed its activities in the field of economic rights. This approach was validated on the

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27. The CDC has a subsidiary, CDC Ixis, present in twenty-one countries. Most of its personnel, 36 percent of a total of 5000 employees, are based in the US. See generally CDC-IXIS, available at [www.cdcixis.com](http://www.cdcixis.com).

28. Interview with Priscilla Crubezy, Senior Manager, CDC, in Paris (July 2001). The fund is managed by the asset management subsidiary, CDC Ixis Asset Management, available at [www.cdcixis-am.fr](http://www.cdcixis-am.fr). English version available at [portailixis-am.com/Portal/home.jsp](http://portailixis-am.com/Portal/home.jsp).

29. Interview with Jean-Pierre Sicard, Novéthïc, in Paris (Nov. 2001). See generally Novéthïc.fr, available at [www.novethic.fr](http://www.novethic.fr).

30. United Nations Joint Staff Pension Fund, available at [www.unjspf.org/eng/org-secretariat.html](http://www.unjspf.org/eng/org-secretariat.html).

31. Interview with Jacques-Noël Leclerc, Amnesty Enterprises, in Paris (July 2001). See also Amnesty International Section Française, available at [www.amnesty.asso.fr/](http://www.amnesty.asso.fr/). The British branch of Amnesty International has also undertaken a program concerning business and human rights, supported by major media campaigns and the development of a global map of British firms and their presence in controversial countries. See the detailed overview of human rights violations conducted globally on Amnesty International UK's website, available at [www.amnesty.org.uk/images/business/newmap.gif](http://www.amnesty.org.uk/images/business/newmap.gif).

international level in the summer of 2001, at Amnesty's world congress in Dakar.<sup>32</sup>

Thus, the private sector took over a new public good, in keeping with these new expectations. By the mid 1990s, the belief in the development of a market of virtue and the ethical assessment of firms encouraged the creation of new professional positions within companies. These positions were created to respond to social pressure and, even more so, to anticipate them.<sup>33</sup> The "déontologue," the French version of the US "ethical officer," had now appeared in the French market.

The job entails communicating with the public on sensitive issues that might confront companies, such as social, ethical, and human rights concerns. The ethical officer must be equipped with a certain know-how in handling highly nuanced public questions, including a full awareness of the subtle particularities of the French system. A recent study shows that major firms have tended to recruit senior civil servants to be their ethical officers.<sup>34</sup> At the end of 1999, an association called the Observatoire sur la Responsabilité Sociétale des Entreprises (ORSE—Observatory on Corporate Social Responsibility) was created bringing together the forty or so companies that boast an ethical officer.

Consulting and audit firms make up a fourth type of expert in the "virtuous marketplace." Yet in France, at least for the time being, only a few have gone into this field. Price Waterhouse Cooper (PWC) is the major player among the Big Five accounting firms, though KPMG, Deloitte & Touche, and Ernst & Young all belong to ORSE. PWC was a pioneer in the French ethical consulting market, working first for the subsidiaries of US firms in France, and then by carrying out ethical audits for French businesses.<sup>35</sup> This new dimension of the transnationalization of business ethics is still at an early stage, yet it could prove decisive in the years to come.

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32. Interview with Morton Winston, Chair, Business and Economic Relations Group of Amnesty International USA, Princeton, N.J. (Oct. 2001). See Morton Winston, *NGO Strategies for Promoting Global Corporate Social Responsibility: The Case of Amnesty International*, 16 *ETHICS & INT'L AFF.* 71 (2002); ANN MARIE CLARK, *DIPLOMACY OF CONSCIENCE: AMNESTY INTERNATIONAL AND CHANGING HUMAN RIGHTS NORMS* (2001).

33. Interview with Michel Le Net, Director, Cercle d'Éthique des Affaires, in Paris (July 2001).

34. MURIEL COEURDRAY, *LA PRODUCTION DE L'OFFRE DÉONTOLOGIQUE ET SES ENJEUX: ANALYSE SOCIOLOGIQUE* (2000) (PricewaterhouseCoopers Report, contract collaboration with PWC-EHESS).

35. Interview with Sylvain Lambert, Manager, PricewaterhouseCoopers, in Paris (July 2001).

## V. FRENCH FIRMS AND HUMAN RIGHTS

As previously stated, corporate social responsibility is gaining new ground in France. During the 1980s, it was mainly concerned with staff-industrial relations within French corporations. By the 1990s, social responsibility, mainly on environmental issues, had expanded to include the relations between businesses and their external partners, cities, the social fabric surrounding them, and their fellow citizens. Finally, and as the last stage in this expansion of the moral concern for responsibility, a number of French firms are now asked to account for their activities abroad from a human rights perspective.

The vast majority of companies listed on the CAC 40 or the SBF 120 have subsidiaries or other commercial activities in many countries directly targeted by human rights critics. When the FTSE, one of the main global index providers, launched its ethical index in July 2001, it excluded many—around ten—French firms on the basis of human rights criteria.<sup>36</sup> Paradoxically, some of these firms are extremely progressive on corporate governance or environmental questions. Among the firms excluded on human rights grounds were Air Liquide, Saint Gobain, Bouygues, Lafarge, Schneider Electric, Crédit Lyonnais, Lagardère, Thalès, Alstom, and Legrand.

The 202 firms selected by this ethical index comprise a large number of British firms (eighty-three)—a bias largely explained by the British origins of the index provider<sup>37</sup>—and German firms (seventeen). France is next with fifteen companies, ahead of the Swiss (eleven), Dutch (eleven), and Italian (eleven) companies (most surprisingly no Scandinavian firms were selected). Fewer than 15 percent of SBF-listed firms are represented in the FTSE ethical index (almost 40 percent from the CAC 40). Companies excluded due to human rights concerns represent a little more than 8 percent of the SBF 120 and almost a quarter of the CAC 40. As for the Dow Jones Stoxx

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36. FTSE4GOOD, a “socially responsible” index, selects the firms to be included by “screening” them on several criteria. Firms operating in certain sectors, such as nuclear energy, the arms industry, or tobacco products, are automatically excluded. The firms that are retained are then graded according to three other criteria: the environment, human rights, and stakeholder relations. Most French firms are excluded on the basis of this last criterion (twenty-one firms), next on environmental grounds (nineteen firms), and finally for human rights reasons (ten firms). See *THE POWER OF HUMAN RIGHTS*, *supra* note 16; Santiso, *Diffusion of Ideas and International Relations*, *supra* note 23.

37. Arèse Sustainable Performance Eurozone Index (ASPI) (which since its creation in June 2001 has focused on social and environmental criteria, but which will be extended to look at human rights questions) contains, for its part, a large number of French firms (around 40 percent, or nearly 35 percent of the total). It only covers continental Europe, thus UK firms are not included. Interviews with Geneviève Ferone, Chairman of Arèse, ASPI; Scott Stark, Managing Director of Dow Jones Stoxx Indices; & Didier Davydoff, Chairman IEM Actuarial, ASPI, in Paris (June 2001). See generally ASPI, available at [www.aresa-sa.com/site.php?rub=4&lang=fr](http://www.aresa-sa.com/site.php?rub=4&lang=fr).

TABLE V  
Sample for SBF 120 Index

| Sector          | Company             | Market Value<br>in Euros<br>as of 9/28/01 | Weight<br>in Index | ORSE<br>Member | In<br>FTSE4-<br>GOOD<br>Index | Excluded<br>on Human<br>Rights<br>Ground |
|-----------------|---------------------|---|--------------------|----------------|-------------------------------|--|
| 01—Energy       |                     | 113 608 974 027                           | 12.08              |                |                               |  |
|                 | Bouygues Offshore   | 617 100 000                               | 0.07               | No             | No                            | Yes                                      |
|                 | Coflexip OPE        | 3 370 184 255                             | 0.36               | No             | No                            | No                                       |
|                 | Geophysique (GLE)   | 402 955 067                               | 0.04               | No             | No                            | No                                       |
|                 | Total Fina Elf      | 109 218 734 705                           | 11.61              | No             | Yes                           | No                                       |
| 02—Commodities  |                     | 21 200 271 607                            | 2.25               |                |                               |  |
|                 | Air Liquide         | 13 937 576 576                            | 1.48               | No             | No                            | Yes                                      |
|                 | Pechiney            | 3 340 793 949                             | 0.36               | No             | No                            | No                                       |
|                 | Rhodia              | 1 255 164 316                             | 0.13               | Yes            | No                            | No                                       |
|                 | Usinor              | 2 205 205 587                             | 0.23               | Yes            | No                            | No                                       |
|                 | Vallourec           | 461 531 179                               | 0.05               | No             | No                            | No                                       |
| 03—Construction |                     | 44 151 075 839                            | 4.69               |                |                               |  |
|                 | Bouygues            | 9 415 842 089                             | 1.00               | No             | No                            | Yes                                      |
|                 | Ciments Francais    | 1 553 112 071                             | 0.17               | No             | No                            | No                                       |
|                 | Eiffage             | 957 399 300                               | 0.10               | No             | No                            | No                                       |
|                 | Imerys              | 1 542 229 529                             | 0.16               | No             | No                            | No                                       |
|                 | Lafarge             | 11 623 708 074                            | 1.24               | No             | No                            | Yes                                      |
|                 | Lapeyre             | 853 861 428                               | 0.09               | No             | No                            | No                                       |
|                 | Saint-Gobain        | 13 008 373 519                            | 1.38               | No             | No                            | Yes                                      |
|                 | Vinci               | 5 196 549 828                             | 0.55               | No             | No                            | No                                       |
| 04—Equipment    |                     | 120 484 569 581                           | 12.81              |                |                               |  |
|                 | Alcatel             | 15 339 170 503                            | 1.63               | No             | No                            | No                                       |
|                 | Alstom              | 3 614 201 562                             | 0.38               | No             | No                            | Yes                                      |
|                 | Avenir Telecom      | 85 499 810                                | 0.01               | No             | No                            | No                                       |
|                 | Bull                | 136 159 119                               | 0.01               | No             | No                            | No                                       |
|                 | Carbone Lorraine    | 308 850 577                               | 0.03               | No             | No                            | No                                       |
|                 | Completel Europe    | 113 994 208                               | 0.01               | No             | No                            | No                                       |
|                 | Eads                | 9 564 818 354                             | 1.02               | No             | No                            | No                                       |
|                 | Equant              | 3 086 112 670                             | 0.33               | No             | No                            | No                                       |
|                 | France Telecom      | 39 945 661 867                            | 4.25               | No             | Yes                           | No                                       |
|                 | Gemplus Intl. Sico. | 1 496 875 417                             | 0.16               | No             | No                            | No                                       |
|                 | Genesys             | 188 597 351                               | 0.02               | No             | No                            | No                                       |
|                 | Highwave Optical    | 69 870 694                                | 0.01               | No             | No                            | No                                       |
|                 | Oberthur Card Sys.  | 331 513 639                               | 0.04               | No             | No                            | No                                       |
|                 | Pinguely Haulotte   | 389 644 198                               | 0.04               | No             | No                            | No                                       |
|                 | Sagem Prov. Echange | 1 256 450 689                             | 0.13               | No             | No                            | No                                       |
|                 | Schneider Electric  | 9 605 994 560                             | 1.02               | No             | No                            | Yes                                      |
|                 | Soi Tec Silicon     | 448 023 920                               | 0.05               | No             | No                            | No                                       |
|                 | Stmicroelectronics  | 20 932 224 107                            | 2.23               | No             | Yes                           | No                                       |
|                 | Thales              | 6 709 260 520                             | 0.71               | No             | No                            | Yes                                      |
|                 | Thomson Multimedia  | 5 699 940 422                             | 0.61               | No             | No                            | No                                       |
|                 | Wavecom             | 297 403 909                               | 0.03               | No             | No                            | No                                       |
|                 | Zodiac              | 864 301 486                               | 0.09               | No             | No                            | No                                       |

Continued on pg. 1330



TABLE V, *continued*: Sample for SBF 120 Index

| Sector                | Company            | Market Value<br>in Euros<br>as of 9/28/01 | Weight<br>in Index | ORSE<br>Member | In<br>FTSE4-<br>GOOD<br>Index | Excluded<br>on Human<br>Rights<br>Ground |
|-----------------------|--------------------|---|--------------------|----------------|-------------------------------|--|
| 05—Automotive         |                    | 27 208 957 228                            | 2.89               |                |                               |  |
|                       | Faurecia           | 1 205 410 110                             | 0.13               | No             | No                            | No                                       |
|                       | Michelin           | 3 900 024 523                             | 0.41               | No             | No                            | No                                       |
|                       | Peugeot            | 11 556 669 071                            | 1.23               | No             | No                            | No                                       |
|                       | Renault            | 7 673 554 144                             | 0.82               | Yes            | No                            | No                                       |
|                       | Valeo              | 2 873 299 379                             | 0.31               | No             | Yes                           | No                                       |
| 06—Consumer Goods     |                    | 155 502 135 488                           | 16.53              |                |                               |  |
|                       | Aventis            | 65 464 094 134                            | 6.96               | No             | Yes                           | No                                       |
|                       | Bic                | 1 869 004 800                             | 0.20               | No             | No                            | No                                       |
|                       | Clarins            | 1 516 242 780                             | 0.16               | No             | No                            | No                                       |
|                       | Essilor Intl.      | 3 074 649 455                             | 0.33               | No             | No                            | No                                       |
|                       | Genset             | 24 719 793                                | 0.00               | No             | No                            | No                                       |
|                       | Hermes Intl.       | 4 749 019 158                             | 0.50               | No             | No                            | No                                       |
|                       | Neopost            | 848 546 692                               | 0.09               | No             | No                            | No                                       |
|                       | Oreal              | 51 177 905 512                            | 5.44               | No             | Yes                           | No                                       |
|                       | Sanofi Synthelabo  | 26 159 592 459                            | 2.78               | Yes            | No                            | No                                       |
|                       | SEB                | 618 360 706                               | 0.07               | No             | No                            | No                                       |
| 07—Agro-Food Industry |                    | 51 724 769 465                            | 5.50               |                |                               |  |
|                       | Altadis Sico.      | 5 467 938 525                             | 0.58               | No             | No                            | No                                       |
|                       | Beghin Say         | 961 802 779                               | 0.10               | No             | No                            | No                                       |
|                       | Danone             | 21 370 342 136                            | 2.27               | No             | No                            | No                                       |
|                       | LVMH Moet Vuitton  | 17 097 370 226                            | 1.82               | Yes            | Yes                           | No                                       |
|                       | Pernod-Ricard      | 4 525 029 465                             | 0.48               | No             | Yes                           | No                                       |
|                       | Remy Cointreau     | 976 307 662                               | 0.10               | No             | No                            | No                                       |
|                       | Royal Canin        | 1 325 978 672                             | 0.14               | No             | No                            | No                                       |
| 08—Retailing          |                    | 73 291 355 940                            | 7.79               |                |                               |  |
|                       | Carrefour          | 37 619 710 897                            | 4.00               | No             | No                            | No                                       |
|                       | Casino Guichard    | 7 913 148 489                             | 0.84               | No             | No                            | No                                       |
|                       | Castorama Dubois   | 8 012 624 076                             | 0.85               | No             | Yes                           | No                                       |
|                       | Galeries Lafayette | 1 802 440 232                             | 0.19               | No             | No                            | No                                       |
|                       | Grandvision        | 404 927 890                               | 0.04               | No             | No                            | No                                       |
|                       | Guyenne Gascogne   | 511 686 126                               | 0.05               | No             | No                            | No                                       |
|                       | Pinault Printemps  | 14 390 228 836                            | 1.53               | Yes            | Yes                           | No                                       |
|                       | Rexel              | 2 636 589 395                             | 0.28               | No             | Yes                           | No                                       |
| 09—Other Services     |                    | 165 741 212 185                           | 17.62              |                |                               |  |
|                       | Accor              | 6 187 883 676                             | 0.66               | No             | Yes                           | No                                       |
|                       | Air France         | 2 637 370 644                             | 0.28               | No             | No                            | No                                       |
|                       | Alten              | 400 253 257                               | 0.04               | No             | No                            | No                                       |
|                       | Altran Techn.      | 4 083 580 341                             | 0.43               | No             | No                            | No                                       |
|                       | Atos Origin        | 3 370 412 892                             | 0.36               | No             | No                            | No                                       |
|                       | Business Objects   | 1 281 563 409                             | 0.14               | No             | No                            | No                                       |
|                       | Cap Gemini         | 7 303 530 205                             | 0.78               | Yes            | Yes                           | No                                       |
|                       | Club Mediterranee  | 716 246 185                               | 0.08               | No             | No                            | No                                       |
|                       | Dassault Systemes  | 3 823 976 504                             | 0.41               | No             | No                            | No                                       |
|                       | Euro Disney SCA    | 876 301 084                               | 0.09               | No             | No                            | No                                       |
|                       | Eurotunnel         | 1 771 134 406                             | 0.19               | No             | No                            | No                                       |
|                       | GFI Informatique   | 387 271 030                               | 0.04               | No             | No                            | No                                       |

*Continued on pg. 1331*

TABLE V, *continued*: Sample for SBF 120 Index

| Sector                 | Company             | Market Value<br>in Euros<br>as of 9/28/01 | Weight<br>in Index | ORSE<br>Member | In<br>FTSE4-<br>GOOD<br>Index | Excluded<br>on Human<br>Rights<br>Ground |
|------------------------|---------------------|---|--------------------|----------------|-------------------------------|--|
|                        | Havas Advertising   | 2 036 081 472                             | 0.22               | No             | No                            | No                                       |
|                        | Infogrames Entert.  | 468 546 969                               | 0.05               | No             | No                            | No                                       |
|                        | Ingenico            | 588 856 398                               | 0.06               | No             | No                            | No                                       |
|                        | M6-Metropole TV     | 2 367 401 986                             | 0.25               | No             | No                            | No                                       |
|                        | NRJ Group           | 1 105 223 397                             | 0.12               | No             | No                            | No                                       |
|                        | Orange              | 5 777 438 040                             | 0.61               | No             | No                            | No                                       |
|                        | Publicis Groupe     | 2 579 244 082                             | 0.27               | No             | No                            | No                                       |
|                        | Sodexo Alliance     | 7 323 336 383                             | 0.78               | No             | Yes                           | No                                       |
|                        | Sopra               | 355 754 820                               | 0.04               | No             | No                            | No                                       |
|                        | SPiR Communication  | 384 139 954                               | 0.04               | No             | No                            | No                                       |
|                        | SR Teleperformance  | 573 510 002                               | 0.06               | No             | No                            | No                                       |
|                        | Suez Lyon. des Eaux | 37 199 176 006                            | 3.95               | No             | No                            | No                                       |
|                        | Technip             | 2 220 850 132                             | 0.24               | No             | No                            | No                                       |
|                        | TF1                 | 2 660 907 816                             | 0.28               | No             | No                            | No                                       |
|                        | Transiciel          | 502 751 975                               | 0.05               | No             | No                            | No                                       |
|                        | UBI Soft Entertain  | 448 091 733                               | 0.05               | No             | No                            | No                                       |
|                        | Unilog              | 638 818 409                               | 0.07               | No             | No                            | No                                       |
|                        | Valtech             | 95 151 299                                | 0.01               | No             | No                            | No                                       |
|                        | Vivendi Environ.    | 4 415 807 747                             | 0.47               | Yes            | No                            | No                                       |
|                        | Vivendi Universal   | 55 206 617 278                            | 5.87               | Yes            | No                            | No                                       |
|                        | Wanadoo             | 5 953 982 658                             | 0.63               | No             | No                            | No                                       |
| 10—Real Estate         |                     | 5 609 996 227                             | 0.60               |                |                               |  |
|                        | Simco               | 2 029 950 000                             | 0.22               | No             | No                            | No                                       |
|                        | Sophia              | 1 037 802 548                             | 0.11               | No             | No                            | No                                       |
|                        | Unibail             | 2 542 243 679                             | 0.27               | No             | No                            | No                                       |
| 11—Financial Services  |                     | 152 896 526 516                           | 16.25              |                |                               |  |
|                        | AGF                 | 9 286 483 280                             | 0.99               | No             | No                            | No                                       |
|                        | AXA                 | 37 184 005 643                            | 3.95               | Yes            | Yes                           | No                                       |
|                        | BNP Paribas         | 39 780 115 501                            | 4.23               | Yes            | Yes                           | No                                       |
|                        | CNP Assurances      | 4 682 911 228                             | 0.50               | No             | No                            | No                                       |
|                        | Coface              | 632 893 212                               | 0.07               | No             | No                            | No                                       |
|                        | Credit Lyonnais     | 11 914 123 753                            | 1.27               | Yes***         | No                            | Yes                                      |
|                        | Dexia Sico.         | 18 980 739 802                            | 2.02               | No             | No                            | No                                       |
|                        | Euler               | 1 322 459 860                             | 0.14               | No             | No                            | No                                       |
|                        | Natexis BQ. Popul   | 4 050 002 393                             | 0.43               | No             | No                            | No                                       |
|                        | SCOR                | 1 461 340 318                             | 0.16               | No             | No                            | No                                       |
|                        | Societe Generale    | 23 601 451 526                            | 2.51               | Yes            | Yes                           | No                                       |
| 12—Investment Services |                     | 9 282 042 565                             | 0.99               |                |                               |  |
|                        | CGIP                | 1 922 568 544                             | 0.20               | No             | No                            | No                                       |
|                        | Eurazeo             | 1 976 513 510                             | 0.21               | No             | No                            | No                                       |
|                        | Isis OPE            | 610 395 048                               | 0.06               | No             | No                            | No                                       |
|                        | Lagardere           | 4 772 565 463                             | 0.51               | No             | No                            | Yes                                      |
| <b>Total SBF 120</b>   |                     | <b>940 701 886 666</b>                    |                    | <b>14</b>      | <b>17</b>                     | <b>10</b>                                |
| <b>In %</b>            |                     |   |                    | <b>11.70%</b>  | <b>14.20%</b>                 | <b>8.30%</b>                             |

Source: Authors' calculations based upon the Paris Stock Exchange (Euronext) database (2001); FTSE: The Index Company (2001); and Observatoire sur la Responsabilité Sociétale des Entreprises (2001).

Sustainability Indexes, in October 2001, only eleven French firms were included<sup>38</sup> versus thirteen each from Sweden and Switzerland, seventeen from Canada, twenty-eight from Germany, thirty-one from Japan, fifty-four from United Kingdom, and seventy-five from the United States. Within European firms, France led Italy (one), Portugal (one), Spain (five), Belgium (five), and the Netherlands (nine).<sup>39</sup>

The analysis of different sources of information offers more precision concerning the presence of French firms in developing countries, both those that are respectful of human rights and those that are not. In the first place, studies carried out on the internationalization of French firms by the Ministry for the Economy, Finance and Industry underline the geographical bias of French firms, with French groups being particularly present in African and Middle Eastern countries.

An important study calculating an indicator of relative bilateral intensity that isolates the effects of the size of the country of origin and the receiving country (thus allowing for the unique measurement of the intensity of economic relations between two countries), reveals that French groups are in fact the leaders in a great many African and Middle Eastern countries, some of which have very poor human rights records. France holds a dominant position in countries with which it has historical ties, most notably eleven sub-Saharan countries, Algeria, and Tunisia. Total Fina Elf is present in Yemen, the Congo, Gabon, Mauritania, and also in Angola and Burma (Myanmar). Peugeot is a leader in Algeria, as is BNP Paribas in Tunisia.<sup>40</sup>

In their sample from the SBF 120, the authors have attempted to evaluate, through the use of official sources, the presence of publicly held groups in developing countries. The latter being ranked according to human rights criteria. They have created a scale of four levels of nonrespect for human rights with which to evaluate the human rights record of developing countries. Level 1 corresponds to countries under sanctions within the framework of Chapter VII of the UN; level 2 corresponds to countries under unilateral North American sanctions (if the country is already included in

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38. There is only a partial overlap between the Dow Jones and FTSE ethical indexes. See FTSE: The Index Company, *available at* [www.ftse4good.com](http://www.ftse4good.com); *see also* Dow Jones Sustainability Indexes, *available at* [www.sustainability-indexes.com](http://www.sustainability-indexes.com). The French firms in the Dow Jones ethical index include Michelin, Société Générale, Saint Gobain, Lafarge, Aventis, AGF, TF1, L'Oréal, ST Microelectronics, and Atos Origin, only four of which also figure in FTSE4GOOD.

39. Similarly, the number of French firms that are members of international bodies such as the World Business Council for Sustainable Development is limited to half a dozen (Aventis, Lafarge, L'Oréal, Michelin, ST Microelectronics, and Le Groupe Suez), *available at* [www.wbcsd.ch](http://www.wbcsd.ch).

40. Benaroya & Bourcieu, *supra* note 21.

the UN list, we have left this country at level 1); finally, levels 3 and 4 correspond to countries appearing on the Freedom House index under the "non free" heading as well as those included in Amnesty International's "geography of corporate risk," or those evaluated negatively by other NGOs (FIDH, Human Rights Watch).

Analysis of the data from annual reports has in turn helped to establish a map of French corporate presence around the world. Out of a total of 2,400 subsidiaries listed in this sample, only one-third are located in countries under sanction at any of the above levels for the nonrespect of human rights. However, if one adjusts this first analysis to take into account only those subsidiaries located in developing countries (a little more than 1,250), the result is much higher, with more than 50 percent of subsidiaries established in countries with a sanction level of 1, 2, 3, or 4.

The analysis of financial reports also helps to give an idea of the propensity of firms to establish themselves or not in countries that respect human rights. However, it can only amount to an approximation. Many activities are not publicly listed, as annual reports are only required to provide an inventory of fully owned subsidiaries. Therefore, a mere one-fourth of SBF 120 firms indicate one or more establishments in China. Yet, with more than fifty subsidiaries (just after Brazil with a total of approximately sixty-five), China is the second most prevalent developing world destination for SBF companies.

**TABLE VI**  
**SBF 120 Firms: Presence in Emerging Markets under Human Rights Sanctions**

|   | <i>Firms</i> | <i>% of total subsidiaries</i> |
|---|--------------|--------------------------------|
| <b>Total operations in emerging economies</b> | <b>1255</b>  |                                |
| Ops. Level 1 Sanctions                        | 16           | 1%                             |
| Ops. Level 2 Sanctions                        | 168          | 13%                            |
| Ops. Level 3 Sanctions                        | 411          | 33%                            |
| Ops. Level 4 Sanctions                        | 45           | 4%                             |
| <b>Total sanctions (Levels 1–4)</b>           | <b>640</b>   | <b>51%</b>                     |

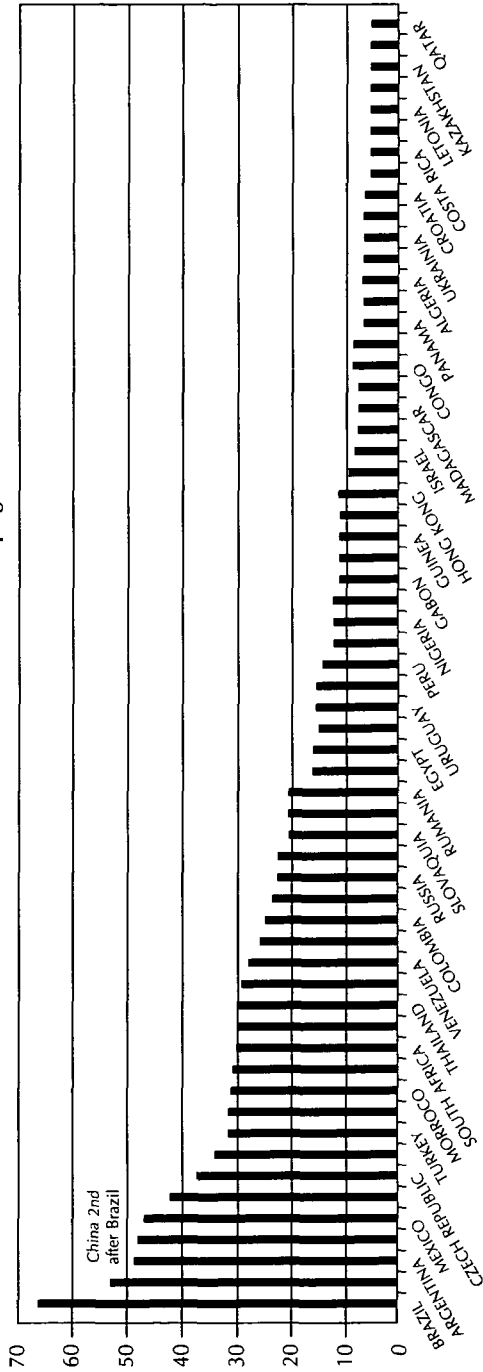
**SBF 120 firms: Presence Abroad and Sanctions**

|                                | <i>Firms</i> | <i>% of total subsidiaries</i> |
|--------------------------------|--------------|--------------------------------|
| <b>Total operations abroad</b> | <b>2382</b>  |                                |
| Ops. Level 1 Sanctions         | 16           | 1%                             |
| Ops. Level 2 Sanctions         | 168          | 7%                             |
| Ops. Level 3 Sanctions         | 411          | 17%                            |
| Ops. Level 4 Sanctions         | 45           | 2%                             |
| <b>Total sanctions (1–4)</b>   | <b>640</b>   | <b>27%</b>                     |

Source: Authors' calculations from the 2000 and 2001 annual financial reports of SBF 120 companies.

**GRAPH V**  
**The Number of Subsidiaries of SBF 120 Firms per Developing Country**

**Number of SBF 120 firm subsidiaries located in developing economies in 2000**



Source: Authors' calculations from the 2000 and 2001 annual financial reports of SBF 120 companies.



China is the number one nondemocratic location for French businesses abroad according to information compiled from their annual financial reports. However, the level of commercial activity in general is actually far superior to that revealed by this single source. For example, in comparison to countries like Algeria or Iran (in each of which only seven SBF 120 companies are listed as having concerns), or Saudi Arabia, Sudan, or Burma (Myanmar) (where no commercial activity or foreign direct investment is listed) China is superior. If a person were to base a study entirely on the information gleaned from annual financial reports of French companies, the firms would appear to be relatively virtuous and respectful of human rights in their implementation strategy. If one constructs a ratio of nondemocratic countries against the total of developing countries in which SBF 120 firms are concerned, one obtains an indicator showing the extent to which firms have a tendency to invest in countries that do not respect human rights. Due to a lack of available data, not all of the SBF 120 firms can be included.

Nevertheless, the ratio and the classification so obtained constitute a first approximation of an SBF 120 firm Human Rights Indicator. Among those firms with a relatively high ratio—that is, whose investments in countries with poor human right records constitute a relatively high proportion of their total investment in the developing world (bearing in mind the incomplete nature of the information contained in financial reports), are those which are the most international in nature, in particular financial institutions (banks and insurance companies) as well as certain firms active in the petroleum sector. Industrial manufacturing groups range across the spectrum, with Vallourec and Usinor (now Arcelor) ranking first and last in the index.

**TABLE VII**  
**Index Firms and Human Rights 2000**  
**(Ratio of Non Human Rights/Total Emerging Countries for Each Firm)**

|                            | <i>Total Emerging<br/>Countries</i> | <i>Countries No<br/>Human Rights</i> | <i>Ratio (%)</i> |
|----------------------------|-------------------------------------|--------------------------------------|------------------|
| Vallourec                  | 7                                   | 5                                    | 71%              |
| Bouygues Offshore          | 13                                  | 8                                    | 53%              |
| Dexia                      | 4                                   | 2                                    | 50%              |
| Axa                        | 26                                  | 12                                   | 46%              |
| Natexis Banques Populaires | 20                                  | 9                                    | 45%              |
| PPR                        | 25                                  | 11                                   | 44%              |
| France Telecom             | 23                                  | 10                                   | 43%              |
| Sodexho Alliance           | 46                                  | 19                                   | 41%              |
| BNP Paribas                | 62                                  | 24                                   | 39%              |
| Eiffage                    | 16                                  | 6                                    | 38%              |
| Bouygues                   | 16                                  | 6                                    | 38%              |
| AGF                        | 14                                  | 5                                    | 38%              |

*Continued on pg. 1337*

TABLE VII, *continued*: Index Firms and Human Rights 2000  
(Ratio of Non Human Rights/Total Emerging Countries for Each Firm)

|                     | <i>Total Emerging<br/>Countries</i> | <i>Countries No<br/>Human Rights</i> | <i>Ratio (%)</i> |
|---------------------|-------------------------------------|--------------------------------------|------------------|
| EADS                | 32                                  | 12                                   | 36%              |
| Péchiney            | 14                                  | 5                                    | 36%              |
| GDF                 | 14                                  | 5                                    | 36%              |
| Alstom              | 44                                  | 16                                   | 36%              |
| Total Fina Elf      | 73                                  | 25                                   | 34%              |
| ST Microelectronics | 6                                   | 2                                    | 33%              |
| Société Générale    | 50                                  | 16                                   | 32%              |
| Crédit Lyonnais     | 16                                  | 5                                    | 31%              |
| Bull                | 30                                  | 9                                    | 29%              |
| Coface              | 53                                  | 16                                   | 29%              |
| Air Liquide         | 24                                  | 7                                    | 29%              |
| Coflexip            | 7                                   | 2                                    | 29%              |
| Lafarge             | 28                                  | 8                                    | 29%              |
| Michelin            | 14                                  | 5                                    | 29%              |
| Alcatel             | 7                                   | 2                                    | 29%              |
| Altadis             | 19                                  | 5                                    | 26%              |
| Sanofi Synthélabo   | 4                                   | 1                                    | 25%              |
| Ciments Français    | 4                                   | 1                                    | 25%              |
| Imesys              | 18                                  | 4                                    | 22%              |
| Schneider Electric  | 34                                  | 7                                    | 21%              |
| EDF                 | 10                                  | 2                                    | 20%              |
| Technip             | 10                                  | 2                                    | 20%              |
| Publicis            | 30                                  | 6                                    | 20%              |
| Valeo               | 11                                  | 2                                    | 18%              |
| Le Carbone Lorraine | 12                                  | 2                                    | 17%              |
| Pernod Ricard       | 18                                  | 3                                    | 17%              |
| Euler               | 7                                   | 1                                    | 17%              |
| Rexel               | 6                                   | 1                                    | 17%              |
| Clarins             | 6                                   | 1                                    | 17%              |
| Ingenico            | 6                                   | 1                                    | 17%              |
| Danone              | 20                                  | 3                                    | 15%              |
| Lagardère           | 13                                  | 2                                    | 15%              |
| CGIP                | 8                                   | 1                                    | 13%              |
| Carrefour           | 15                                  | 2                                    | 13%              |
| Havas Advertising   | 24                                  | 3                                    | 13%              |
| Essilor             | 17                                  | 2                                    | 12%              |
| Rhodia              | 9                                   | 1                                    | 11%              |
| Rémy Cointreau      | 18                                  | 2                                    | 11%              |
| Sommer Allibert     | 9                                   | 1                                    | 11%              |
| L'Oréal             | 28                                  | 3                                    | 11%              |
| Casino              | 9                                   | 1                                    | 11%              |
| Faurecia            | 10                                  | 1                                    | 10%              |
| Scor                | 10                                  | 1                                    | 10%              |
| Renault             | 10                                  | 1                                    | 10%              |
| Eridiana            | 16                                  | 1                                    | 6%               |
| Royal Canin         | 2                                   | 0                                    | 0%               |
| Usinor              | 8                                   | 0                                    | 0%               |
| Vinci               | 4                                   | 0                                    | 0%               |
| Lapeyre             | 2                                   | 0                                    | 0%               |

Source: Authors' calculations from the 2000 and 2001 annual financial reports of SBF 120 companies.



Nevertheless, the index and the classification of French firms and human rights obtained, reflect a somewhat incomplete image. Cross-checking this data with other sources of information allows one to appreciate the size of the gap between the data listed in the annual financial reports and the real level of activity. For instance, looking at Cuba, the following was found. Between 1995 and 2000, the influx of FDI is estimated to have been almost US\$ 5 billion, 4.2 billion of which has already been disbursed and is essentially concentrated in tourism, basic industry, the power industry, and telecommunications. In total, almost 370 firms from forty-six countries operate on the island. Of this total, approximately sixty are French companies, roughly 17 percent of the total. The French share of FDI in the island represents 5.5 percent of the total, compared with the more than US\$ 1 billion from Spain (25 percent), US\$ 840 million from Canada (20 percent), and US\$ 800 million from Italy (19 percent). France and the United Kingdom, with 5.5 percent and 3.3 percent respectively of the FDI total, appear in fourth and fifth positions.

Another database, from Transparency International, reveals that French companies are perceived to be among the most likely bribers. Based on a survey of 835 interviews, which were carried out between December 2001 and March 2002, principally with senior executives of domestic and foreign companies, the Transparency International Bribe Payers Index 2002 underlines that French, Japanese, and US firms are the countries, among the OECD countries, that are perceived to have strong propensities to pay or offer bribes in order to win or retain business.<sup>41</sup> France and the United States are also, according to this survey, the governments principally associated with practices such as diplomatic or political pressure; financial pressure tied foreign aid; and favors and gifts given to officials, used to gain unfair advantage in international trade and investment.<sup>42</sup>

## **VI. THE HUMAN RIGHTS VIRTUE MARKET: ALTRUISTIC UTILITARIANISM VERSUS SELFISH MONETARISM**

As they become ever more internationalized and operational in numerous nondemocratic developing nations, French firms are increasingly exposed to NGO criticism. They are confronted with a double threat: first, the possibility that some humanitarian movements will criticize their activities on the grounds of compromising activities by their subsidiaries in the developing world; and second, that elements of US society—the courts or the media—

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41. See Transparency International, *Transparency International Bribe Payers Index 2002*, available at [www.transparency.org/cpi/2002/bpi2002.en.html](http://www.transparency.org/cpi/2002/bpi2002.en.html).

42. See *id.*

TABLES VII bis  
Transparency International

**Transparency International Bribe Payers Index 2002**

*In the business sectors with which you are most familiar, please indicate how likely companies from the following countries are to pay or offer bribes to win or retain business in this country [respondent's country of residence]?*

| Rank | Total sample          | 2002 | 1999   | OECD                              |
|------|-----------------------|------|--------|-----------------------------------|
|      |                       | 835  | 779    | Convention<br>(as of 14 May 2002) |
| 1    | Australia             | 8.5  | 8.1    | Ratified                          |
| 2    | Sweden                | 8.4  | 8.3    | Ratified                          |
|      | Switzerland           | 8.4  | 7.7    | Ratified                          |
| 4    | Austria               | 8.2  | 7.8    | Ratified                          |
| 5    | Canada                | 8.1  | 8.1    | Ratified                          |
| 6    | Netherlands           | 7.8  | 7.4    | Ratified                          |
|      | Belgium               | 7.8  | 6.8    | Ratified                          |
| 8    | United Kingdom        | 6.9  | 7.2    | Ratified                          |
| 9    | Singapore             | 6.3  | 5.7    | not signed                        |
|      | Germany               | 6.3  | 6.2    | Ratified                          |
| 11   | Spain                 | 5.8  | 5.3    | Ratified                          |
| 12   | France                | 5.5  | 5.2    | Ratified                          |
| 13   | USA                   | 5.3  | 6.2    | Ratified                          |
|      | Japan                 | 5.3  | 5.1    | Ratified                          |
| 15   | Malaysia              | 4.3  | 3.9    | not signed                        |
|      | Hong Kong             | 4.3  | n.a.*  | not signed                        |
| 17   | Italy                 | 4.1  | 3.7    | Ratified                          |
| 18   | South Korea           | 3.9  | 3.4    | Ratified                          |
| 19   | Taiwan                | 3.8  | 3.5    | not signed                        |
| 20   | China (People's Rep.) | 3.5  | 3.1    | not signed                        |
| 21   | Russia                | 3.2  | n.a.** | not signed                        |
|      | Domestic companies    | 1.9  | n.a.** |                                   |

The question related to the propensity of companies from leading exporting countries to pay bribes to senior public officials in the surveyed emerging market countries.

A perfect score, indicating zero perceived propensity to pay bribes, is 10.0, and thus the ranking starts with companies from countries that are seen to have a low propensity for foreign bribe paying. In the 2002 survey, all the data indicated that domestically owned companies in the 15 countries surveyed have a very high propensity to pay bribes—higher than that of foreign firms.

**Countries using other unfair means to gain or retain business**

*Which three governments do you principally associate with practices such as those mentioned above [other means—besides bribery—used to gain unfair advantage in international trade and investment]?*

|                       | 2002 |              | 2002 |  |
|-----------------------|------|--------------|------|--|
|                       | 567  |              | 567  |  |
| Total sample          | %    | Total sample | %    |  |
| USA                   | 58   | South Korea  | 4    |  |
| France                | 26   | Switzerland  | 4    |  |
| United Kingdom        | 19   | Malaysia     | 3    |  |
| Japan                 | 18   | Canada       | 3    |  |
| China (People's Rep.) | 16   | Netherlands  | 3    |  |
| Russia                | 13   | Singapore    | 1    |  |
| This country          | 12   | Belgium      | 1    |  |
| Germany               | 11   | Australia    | 1    |  |
| Spain                 | 9    | Austria      | 1    |  |
| Italy                 | 5    | Hong Kong    | 1    |  |
| Taiwan                | 5    | Sweden       | <1   |  |

The score reflects the percentage of responses where the country featured among the three countries cited as principally associated with other unfair practices

Source: Transparency International, Transparency International Bribe Payers Index 2002, available at [www.transparency.org/cpi/2002/bpi2002.en.html](http://www.transparency.org/cpi/2002/bpi2002.en.html).

will react negatively on the basis of these reports. As a consequence, certain French actors have been attempting since the late 1990s, to anticipate a specifically French reaction to their potentially dubious activities. This anticipation has been spurred on further by the fact that the French media has entered the fray.<sup>43</sup>

This move toward the normative signals a change in beliefs. The anti-Friedman belief, according to which virtue can indeed yield profit, has gained ground, and a conversion to humanitarianism has thus become an opportunity for businesses to seize. Indeed, many English language publications attempt to prove, on a statistical basis, that the best businesses are those that are the most receptive to human rights issues. Moreover, there is a belief that the businesses can perform better precisely because of the care they attach to their public image.<sup>44</sup>

Modeled on certain conventions existing at the international level within the UN or in the US,<sup>45</sup> partnerships are beginning to form between NGOs and businesses. NGOs are invited by businesspeople to carry out social audits of their activities on French soil. In addition, they equally survey the activities of their subsidiaries or subcontractors abroad. The strategy of the firms, as much as that of the NGOs, is interesting to study in this respect. Faced with the opening of the new market of virtue, several pioneers have chosen to invest in a domain that they believe and hope will bear fruit.

Faith in the profitability of a virtuous marketplace motivates and directs their strategy. For the NGOs the gamble appears audacious. Some of them have decided to cooperate with businesses in order to inspect their activities and to grant them, if these were to prove sufficiently respectable, their approval in return. By making this choice, NGOs have laid themselves open to criticism from their competitors in the humanitarian sector. The NGOs have been accused of seeking profit and betraying their ideals. As a consequence, free-riding holds certain risks and depends on the success of this foray by humanitarian actors into the field of corporate moral expertise.

Also in the mid 1990s, the increasing activism of NGOs in questioning firms on human rights grounds led some of them to undertake a more meaningful long-term dialogue with industry and the financial sector. The example of the Fédération Internationale des Droits de l'Homme (FIDH or International Federation of Human Rights) is illustrative. After having waged a campaign against several petroleum firms, most notably Total Fina Elf,

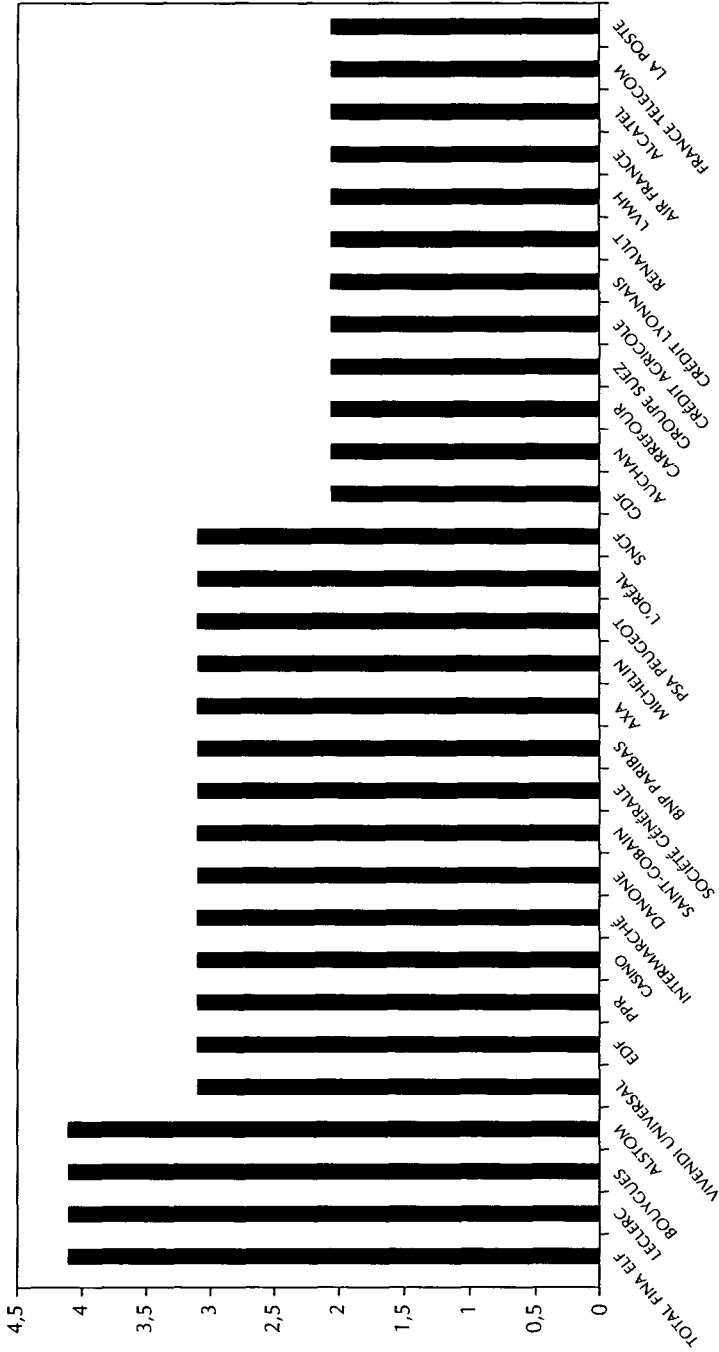
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43. *Le Risque Éthique Suivant*, LE NOUVEL ÉCONOMISTE, 29 June 2001, at 38–40.

44. MOSES L. PAVA & JOSHUA KRAUSZ, CORPORATE RESPONSIBILITY AND FINANCIAL PERFORMANCE: THE PARADOX OF SOCIAL COST (1995).

45. See PETERS & ENDERLE, *supra* note 10, for discussion of the conversion of NGOs to cooperating with transnational corporations.

GRAPH VII  
Ethical Risk Index (0 = Low, 5 = High)



Sources: Authors' calculations based upon data from *Nouvel Economiste* (29 June 2001), at 38-49.

whose Burmese (Myanmar) operations were the subject of a special report in October 1996, the FIDH replied favorably to a request from a major retail chain to advise it on human rights issues.<sup>46</sup>

At this time, Carrefour was one of the most internationalized firms in France as well as a leader in the distribution sector. It was also one of the first in its sector to carry out a significant audit of its suppliers, as early as 1999 (eighty social audits carried out on sixty suppliers worldwide). In 2001, FIDH began a new phase of activity directed at the private sector by creating, with the support of the Caisse des Dépôts et Consignations (CDC), and the company managing the Post Office (La Poste), an ethical profit sharing fund exclusively focused on human rights.<sup>47</sup>

A number of businesses are now actively soliciting audit services from human rights pioneers. In the current context, they could benefit from the publicity that is favoring the "virtuous." However, the potential cost of such a strategy could nonetheless be significant. Obviously, the risk of being discredited is fairly limited in the sense that it is the firm that takes the initiative in setting up the procedure. On the other hand, the cost of the study could be considerable, and above all, the findings could force costly management changes. Pioneers are motivated by the idea that, given time, their "good faith" will yield benefits.

In France, the distribution sector was drawn into this virtuous circle, following the examples of Carrefour and Monoprix. Pioneers are encouraged in their approach by the belief that its costs will be offset—those who pay the price now will see their investment pay off later—while those who are reluctant to do so will see their activities suffer as a result of negative publicity. The contagious effect by which these beliefs are spread attests to the force of the US model and its altruistic utilitarianism, an association between interests and virtue founded on the idea that virtue is economically worthwhile.<sup>48</sup> The entrepreneurs of virtue have created new creeds, associating profitability and human rights, which stand in opposition to traditional monetarist science.

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46. Interview with Antoine Bernard, Director, Federation International of Human Rights (FIDH) France, in Paris (Mar. 2001). See generally FIDH, *EXEMPLE D'UNE COOPÉRATION ONG/ENTREPRISE: LA FIDH ET CARREFOUR* (FIDH Internal Report, May 2001), available at [www.fidh.org/ecosoc/rapport/2001/fr/carr1405f.PDF](http://www.fidh.org/ecosoc/rapport/2001/fr/carr1405f.PDF).

47. Interviews with Isabelle Chebat, Manager Development-Communication Department, FIDH, in Paris (May 2001); Anne-Christine Habbard, General Secretary, FIDH, in Paris (June 2001); Marie Guiraud, Globalization-Investigation Department, FIDH, in Paris (July 2001).

48. JOHN STUART MILL, *UTILITARIANISM* 23–24 (1910).

[U]tilitarian moralists have gone beyond almost all others in affirming that the motive has nothing to do with the morality of the action, though much with the worth of the agent. He who saves a fellow creature from drowning does what is morally right, whether his motive be duty, or the hope of being paid for his trouble.

## VII. CONCLUSION: THE PRIVATIZATION OF HUMAN RIGHTS

The impact of the globalization of ideas in France has been increasing, in that it has taken place in parallel with the globalization of capital and of the markets in which French firms operate. In the same way, humanitarian values and corporate social responsibility have seen their importance magnified, because they overlap with the global strategies and interests of French businesses. Thus, it was easier to convince French firms of the need to be open to a new approach, drawn from Anglo-American precedents, which encompass social, environmental, and human rights responsibilities. In sum, values have begun to influence the definition of interests, and a social construct of economic reality has increasingly taken shape since the end of the 1990s.

In regulatory terms, the heart of the issue lies at the intersection of the private sector and the public realm. The private market of virtue incites and encourages French capitalism, and the most effective firms to adopt new codes of conduct. This contagious phenomenon, spread via the market, has until now progressed relatively easily, and without undue involvement by the state. However, currently, as this new approach to management spreads, and the media increasingly focuses on these issues, the French state finds itself compelled to react.

The late return of the French state into a domain that should have been one of its interests all along, the law and specifically that involving human rights, is somewhat embarrassing. Given the changing context, the Ministry for Foreign Affairs should have been more discriminate when it began to encourage French investment abroad. Yet, there is a considerable gap between the principles guiding French foreign policy and the concerns of economic actors regarding human rights.

In a number of instances, and for reasons that are both political (the affirmation of French sovereignty) and economic (the conquest of markets neglected by US leaders), French leaders encourage investment in areas of the world that are highly sensitive from a human rights perspective. Therefore, the Quai d'Orsay (French Foreign Office) and the Medef<sup>49</sup> (French Business Confederation) in no way inhibit investment in Cuba, China, Burma (Myanmar), or in a certain number of Arab countries whose regimes display little concern for human rights. In particular, the traditional French, pro-Arab foreign policy, as illustrated by the sale of a nuclear plant to Iraq during the 1980s, has led them to ignore this norm.

Many French diplomats believe that human rights should not be taken

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49. Ariel Colonomos, *La modernité d'un archaïsme: l'embargo cubain au défi des critiques adressées à la loi Helms-Burton* (Les Études du CERI, Working Paper No. 63, Mar. 2000).

into account in the framing of foreign policy.<sup>50</sup> Taking human rights under consideration would create an obstacle to the decision making process. Moreover, it could hamper the interests of major French groups. The Total Fina Elf case serves as an illustration.

Total is able to be active in countries where its direct competitors, notably North American, are constrained by their national administrations. While oil firms like the British company British Petroleum (BP), for example, which has significant assets in the US, are relatively cautious in their international activities, Total has no such constraints (Total Fina Elf keeps a low profile in the US, except for its chemical activities, which are largely unknown to US consumers). In Burma (Myanmar), Total has been relatively free to operate. However, UK policy, dating back to the time of John Major's government, differs in that the UK government has the right to ask British companies to withdraw from controversial countries, as was the case of the British oil producer, Premier, in Burma (Myanmar).

The regulatory task is somewhat easier for the Ministry of the Economy. It is worth noting that the Ministry of the Economy is gaining influence over the Ministry of Foreign Affairs in this respect. Only recently, did the Ministry of Foreign Affairs start to increase its interest and involvement on these issues.<sup>51</sup> Certain national commercial regulations, thus echo new ethical concerns, such as the law on New Regulations for Business (NRE), enacted in July 2001, under which businesses must undertake social and environmental reporting. Moreover, the recent increase in initiatives, such as awards for the quality of environmental information reported by French firms, attests to a growing interest in these issues. European integration could encourage French decision makers to take further steps. Given that European Commissioners such as Chris Patten and Pascal Lamy are promoting the inclusion of social, environmental, and human rights con-

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50. Regarding the activism of investment funds and NGOs concerning firms investing in Burma (Myanmar), see the very complete report on the question prepared by the association Terra Nova Conseil, SRI In Progress No. 4, available at [www.terra-nova.fr/SRI-in-progress-Archives.htm](http://www.terra-nova.fr/SRI-in-progress-Archives.htm). The case of French oil firms was the subject of a French Parliamentary Report in 1999: Marie-Hélène Aubert, Pierre Brana, & Roland Blum, *Rapport d'information sur le rôle des compagnies pétrolières dans la politique internationale et son impact social et environnemental*, Paris, Assemblée Nationale, Rapport d'Information No. 1859 (Oct. 1999), available at [www.assemblee-nationale.fr/rap-info/i1859-01.asp](http://www.assemblee-nationale.fr/rap-info/i1859-01.asp).

51. BÉATRICE POULIGNY & JAVIER SANTISO, ENTRE ÉTHIQUES ET ÉCONOMIE: ENJEUX, NORMES ET ACTEURS, REPORT OF THE INT'L CONFERENCE (French Foreign Affairs Ministry & CERI-Sciences Po, Dec. 2001), available at [www.ceri-sciences-po.org/archive/april02/artbpjs.pdf](http://www.ceri-sciences-po.org/archive/april02/artbpjs.pdf). For the French Ministry of Finance and Economics, see in particular Secrétariat d'Etat au Commerce Extérieur, *Echanges et éthique*, Paris, DREE Dossiers Les enjeux économiques internationaux, (Secrétariat d'Etat au Commerce Extérieur, Feb. 2002), available at [www.commerce-exterieur.gouv.fr/publications1/pdf/ethik.pdf](http://www.commerce-exterieur.gouv.fr/publications1/pdf/ethik.pdf).

cerns in European external relations, it is probable that ethical business practices will find a place in the European approach as well.

The new regulatory framework reflects the orientation already taken by some of the most important nationalized French groups. Many of them (EDF-GDF, the RATP, SNCF, La Poste, CDC, and Crédit Agricole) have been willing to include human rights in their agenda. Do these last examples signify a self-subversion of the authors' work?<sup>52</sup> As shown, a significant presence in the United States, combined with a significant holding by US investors of French capital, tends to induce firms to adopt "socially responsible" behavior. Nonetheless, there are many counter-examples. Some firms that are not listed on the stock market (because they are nationally held), and that have no strong position on the US market, have still complied enthusiastically with this norm. A great many state companies, perhaps because their activity and their *raison d'être* are linked to "public service" and to the idea of a "common good," have been very active on the social and environmental front. Corporate responsibility represents a natural evolution of their public service mission. One of the paradoxes of the spread of these norms is that large, nationalized groups have seen fit to draw on ideas created in the private sector and adapt them to their own public missions.

Thus, even a strongly centralized state, like France, can see its structures and institutions challenged by the market-driven transnationalization of ideas. This market based "contagion" must, sooner or later, provoke a state reaction. A reaction that is increasingly urgent, because not just activists, but ordinary citizens, are engaged in pressing these themes. A public initiative of virtue-based regulation for the marketplace is being put into place via the private and transnational spheres. In time, this could encourage state reform, and European integration makes this all the more likely.

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52. By "self-subversion" the authors are referring to Hirschman's recommended self-subversion exercises, which consist of refuting one's own generalizations: "skepticism toward *other* people's claims to spectacular theoretical discoveries is, of course, not a particularly noteworthy trait. It is however more unusual to develop this sort of reaction to *one's own* generalizations or theoretical constructs." ALBERT HIRSCHMAN, *A PROPENSITY TO SELF-SUBVERSION* 85 (1995).