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From the President's Desk

Dealing with Powder Kegs of 2006

How can Business Build Trust?

Despite prophesies of gloom, natural disasters, relentless rise in the oil prices, wide spread predictions of crash of US dollar, mounting US deficit, 2005 marked the triumph of human ingenuity, imagination and enterprise to beat the odds. 2006 was ushered with much great expectations with the markets registering dizzy growth rates that were hitherto inconceivable.

US itself registered a GDP growth of 3.5%. Stocks in the emerging markets have grown at 200% in the last two years. Market valuations registered an increase of 126% in Egypt, 108% in Columbia, 80% in Russia, 52% in South Korea & Turkey, 42% in India and 41% in Brazil. GDP growth rates zoomed to 9.9% in China, 9.8% in Venezuela, 9.2% in Argentina, 8.2% in Hong Kong, 8% in India and 7% each in Turkey and Russia. China, India, Taiwan, South Korea and Hong Kong have collectively accumulated $1.5 trillion worth of foreign exchange reserves.

All eyes in the recent WEF conference at DAVOS were on India and China. India became a toast of the world with its robust GDP growth, buoyant economy, soaring stock market and rising foreign reserves. Indian stock markets were fuelled by foreign investors. India received FII in excess of 10 billion dollars and FDI of $9.5bn. For the first time the role of democracy in India's slow and steady rise in building profitable global enterprises with huge increases in market capitalisation has been recognised. Overseas companies never made so much profit in China and Chinese stock market has been stagnating for the past 4 years. Also, while China's growth stemmed from massive accumulation of resources. India's growth comes from increasing productivity.

The latest figures from the Unites Nations conference on trade and development show that the ratio of foreign direct investment to world output that rose from 5.3% in 1980 to 7.8% in 1990 was 21.9% in 2004. According to the World Bank, the flow of remittances to developing countries jumped from 31 billion dollars in 1990 to 167 billion dollars in 2005.

Despite all this the business could be in for 'shock and awe' in 2006. There are several powder kegs that can explode at any time. We have just witnessed one of them in the form of global protests and demonstrations over the cartoons of prophet Mohammad. Iran's intransigence over its nuclear ambitions and Hamas victory in Palestine are just some of the ominous signs. Opium warlords and Taliban are back in Afghanistan and Iraq is getting worse day by day. All this shows that business risks its gravest challenge in 2006.

Large parts of the world remain disenfranchised. The economic boom leaves 98% of the world population untouched. The hunger is on the increase everywhere. The US may be bragging about a 3.5% growth, the fact is, it itself is in a poverty trap. A recent report indicated that 37 million people lived below poverty line, up 1.1 million from 2003. Number of people without health insurance edged up by about 800,000 to 45.8 million. The backlash against outsourcing and offshoring is an expression of real concern for job losses being announced in the West every day. India regarded as a software giant is home to world's largest number of hungry people and illiterate women.

There are large imbalances, both inter region and intra region. With the exception of Venezuela, Argentina and Chile much of the Latin American and Subsaharan Africa have failed to benefit from it. Both India and China which have fuelled the Asian growth in 2005 are suffering from the imbalances between the rural and urban population. Despite the explosive growth of the mobile telephones in India the tele density in rural India is barely 2% compared to 45% and 55% in metros of Delhi and Mumbai. In May 2004 when India's economy was equally booming, the ruling coalition lost the general election despite its claim of "India Shining". The rural population revolted because government policies left in the cold. Farmers are joining extremist Naxalite forces in large numbers in the Indian states of Bihar, Madhya Pradesh and Andra Pradesh. Last year, one thousand Naxalites marched into a police station in Jehanabad in the Indian state of Bihar, occupied it for several hours and freed the prisoners. Later police had to fire a group of tribals killing 11 of them because they were protesting against the land grab by the government for building a steel plant.

Similar instances have been reported in China. The public security ministry of China estimated that the number of riots and demonstrations rose to 87,000 during 2005 almost quadruple of what it was a decade ago. The violence is in part a reaction to an economic boom that has produced over 9% annual growth in China but left the rural population flat out. Premier Wen Jiabao warned senior rural bureaucrats last month against making a "historical mistake" by failing to protect farmers and their lands. President Hu Jintao warned the politbureau that 'if we cannot succeed in developing agriculture and rural areas while helping farmers improve their lives markedly we will fail to reach the goal of building a comparatively prosperous society'. Davos had a well-attended session that focused on the wave of protests against corrupt officials in Chinese towns and villages.

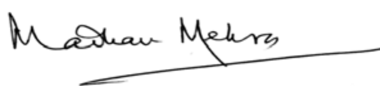
Both nations could be derailed by regional imbalances and sharpening divide. Their tasks as of all emerging economies is to overcome enormous regional disparities of wealth and spread their growing prosperity more evenly among their populations.

In both India and China corruption in the administration has been responsible for siphoning of the resources allocated for rural uplift. China has found innovative ways to name and shame wrong doers. China is going in a big way in punishing officials who are found to be involved in land grab or corrupt dealings. Many have been given a life sentence and removed from prestigious position in the party. Despite these punishments the present disaffection in China and India is growing and should be a cause for deep concern for the business.

The disaffection and alienation are growing largely because the technology and globalisation are not working for the masses. The wide spread demonstrations against the cartoons of the prophet are not a clash of civilisations but the expression of pent up feelings of a community which has long been left out of modernity because of economic and social injustices not only by the western world but by their own autocratic rulers. The globalisation has failed to integrate these communities and build a culture of enterprise and entrepreneurship. This is a challenge for the business because they have everything to lose if the discontent spreads.

So what's the solution? We must change our models of dialogue, debate and democracy. The Socratic model of adversarial debate aimed to demolish opponent's argument rather than exploration and understanding of each other's beliefs and perceptions is unsuitable in the complex world of the 21st Century where there may be many aspects of the same truth. We have to move from monologues to dialogue and learn to value dissent, difference and diversity. This is the only way to have constructive engagement with all stakeholders. We have to use transparency and disclosure to rebuild trust with local communities. While November's unrest and arson attacks affected many suburbs around Paris, the town of Issyles-Moulineaux to the south capital was largely spared. There, Mayor Andre Santini has bet heavily on technology infrastructure in a successful bid to attract international firms such as Hewlett-Packard and Cisco Systems. He's also used technology to interact more openly with Issy's 63,000 residents. Issy was the first French town to start an internet-based local TV service, and last December it held an online election for councillors for Issy's four districts. Candidates campaigned via their own blog pages and discussed issues with voters through the town's website. Such measures have bolstered Santini's local support and he won a landslide victory in the last municipal elections.

Global corporations today have to face new geopolitical realities. It is their neck on the chopping block. Their constituency is global. So they must have global mindsets. They have to become the drivers of both social and political agenda and use technology to co-create entrepreneurial solutions to the intractable problems of peace, poverty and pollution. Having cried hoarse all along for minimising the government role in corporate agenda they cannot bank entirely on the governments. The discontent stemming from inequality and injustice provides a lush recruiting ground for the evil ideologues and can spell doom for the businesses. Their biggest challenge today lies in managing diversity and bridging disparities for their own survival. Alternative is chaos and anarchy.



Madhav Mehra

Governance 2.0: From Compliance to Strategy – Is Your Board Prepared?

*Professors Richard Leblanc & James Gillies

During the past five or six years there has been an unprecedented increase in interest in corporate governance. The interest has been spawned by the numerous corporate scandals and has resulted in the inauguration of a plethora of new laws, regulations and codes of conduct for directors. And yet many of the failures that have caused such consternation had little or nothing to do with "failures in corporate governance," but were the result of fraud in some cases and shareholder exuberance which bid up the market price of shares to levels that could never be justified on the basis of a rational analysis of their potential earning capacity. Much of the recent rage against corporations is the result of the fallout from management, investor and director greed, things that cannot be controlled by any known type of rules or regulations. This does not mean that corporate governance is unimportant – only that the recent scandals and consequent regulations do not come to grips with what corporate governance is really all about.

Corporate governance for the most part in the past thirty years or so has been focused on a very narrow concept, namely, that the major task of the board of directors is to monitor the activities in the interest of the shareholders. In turn it has been assumed that this monitoring is best done when the board of directors has a majority of outside directors, the position of CEO and Chair are separate and the majority of the board is independent. The implication of this interpretation is that the management of the corporation and non-independent directors do not take their fiduciary responsibilities to the shareholders seriously and act, if they are not checked by the independent members of the board, in a manner that is deleterious to the people that own the company.

Where would such a strange notion come from? First, if one wishes to go back in history such a view can be superficially read into Adam Smith's Wealth of Nations where Smith makes the point that self-interest is the motivating force of most businesspeople and that it is in the interests of the state that this should be so. However, Smith was not thinking of the nuances of corporate governance when he made the argument in 1776. Rather the modern exposition of the position springs from the application of "agency theory" to the analysis of governance. This view has been advanced most strongly by Harvard Business School finance professor, Michael Jensen. The essence of the theory is that managers of enterprises basically operate as agents for the shareholders. In fulfilling their duties to the shareholders, the managers, as agents, will be more interested in maximizing their own earnings than those of the owners of the firm. To prevent an undue amount of funds being kept by the agents, *i.e.*, the managers, it is necessary, it is argued, to have someone to more or less monitor their activities. These monitors are the directors of the firm. Corporate governance is, therefore, about assuring that the agency fee is appropriate.

Implicit in the argument are two fallacies. First, that chief executive officers do not have the interest of the shareholders foremost in their minds when they make their decisions. And second, that the directors have the capacity, skill and willingness to prevent the managers from exploiting the shareholders, if this is what the management of the organization wishes to do. There is truth in both these statements, but there is also fallacy and the fallacy probably outlaws the truth.

Regardless, to look at corporate governance as simply a process for controlling excessive agency costs is to miss its major function. Rather boards of directors are an integral part of the overall team charged with operating the organization in an optimum manner. If one subscribes to the stakeholder theory of the corporation, this means that the board, along with management, has a responsibility to shareholders, customers, employees and the community within which the organization operates. If, on the other hand, one believes, as does Milton Friedman and his followers, in a strict market approach to corporate governance, then the duty is in fact simply to maximize shareholder value. Regardless of which theory one endorses, the bottom line is that the board of directors is a part of the team responsible for the well-being of the enterprise. Indeed, by law the directors owe a duty of care and of loyalty to the enterprise, not to any specific stakeholder. To limit governance to the monitoring of the management of the

corporation to insure that the agency fees paid to the management are appropriate interprets the role of the board of directors in a much too narrow fashion.

The fact is that the boards of directors have a duty to assure the optimum operation of the enterprise. They must be deeply involved in the most significant decisions involving the well-being of the corporation. Indeed, by law when there is a decision to be made about a "takeover," the board must recommend whether or not the deal should be supported or turned down to the shareholders – not the management. When dividends are declared, by law, it must be done by the directors. Since both of these activities are acutely associated with the future of the enterprise, it is clear that the board of directors must be involved in the process of setting strategy for the enterprise.

Unfortunately, this latter requirement has been deeply neglected both by students of corporate governance and strategy. Indeed, most modern textbooks on management, until very recently, devoted only a few pages to the role of the board in setting and approving of strategy, and in texts on strategy, the role of the board, while given more attention, is approached in at best as a more or less after thought to the strategy setting process. Indeed, both in the strategy texts and the governance writing, the board's role in strategy formulation is generally though to be one of more or less approving (or disapproving) what management recommends.

And given the emphasis that has been placed on the "monitoring" or compliance role of the board in recent years, primarily because of the over-emphasis of agency theory, this is not astonishing. After all, agency theory implicitly suggests that there must be regulation to keep "management under control," and so boards have become watchdogs. From this comes the view that the board must be very "independent of management" and that any conflicts, apparent or real, must be avoided at all costs. This concept calls for independence of directors, above all else, and indeed suggests that the majority of directors should be outsiders and committees of the board should be exclusively independent of management. While one would not dismiss the importance of independence of thought and action by board members, the regulations almost call for appointing directors that have never been connected to the company in any manner, and who preferably know very little about the industry within which it operates. It is not astonishing under such circumstances that boards are assumed (and probably do not) not to play much role in the development of the strategy of most firms. They basically approve what management suggests. Consequently, the fact that strategy scholars give short shrift to boards when writing about strategy is easy to understand. Traditionally, boards do not play much role in the "strategy process" other than more or less rubber stamping what management recommends.

At the same time, scholars from the field of governance have had relatively little to say about the role that the board should play in the "strategy process" because they know so little about how boards operate. Almost all the limited writing suggests that the boards should approve strategies and implies that they do. This lack of emphasis on the role of the board in "strategy" in turn reinforces the approach that the board is there as a "watchdog" over management and that the important writing about governance should focuses on codes of conduct and the structure of boards.

There have been exceptions, of course, to these general observations. At the time of the great unfriendly takeover movement in the 1990s, much more focus was placed on the role of boards – and most of what was written about them was highly unfavorable. Similarly, organizations such as CalPERS began actively fighting the reappointment of directors on boards of companies in which they had major shareholdings when they believed the board was ineffective in primarily overseeing the "strategic direction" of a company. CalPERS believes that the board must take responsibility for the strategic direction of the firm – whether it is deeply involved in formulating the strategy or approving it – and that the strategy should be correct.

Possibly the leading example of the reform of a board because of its absolute failure to see that an appropriate strategy was followed is General Motors in the 1980s. At that time, it was apparent to anyone even remotely familiar with automobiles that the strategy of General Motors of staying with the production of large expensive cars, because their higher prices produced greater margins, at a time when the consumer wanted smaller more efficient cars, was suicidal. And yet the board did nothing until it was forced to do so.

The reality is that boards have not been constructed to fulfill their most important duty – to assure, one way or another, that the strategy being followed by the corporation is the appropriate one – one that will maximize shareholder value as well as meeting the other requirements of good corporate citizenship. Having a board that can do so should be the first goal of any enterprise. In selecting a board, therefore, in moving from compliance to a strategic, value-added role of the board, it is imperative to concentrate on a number of issues that are routinely ignored in discussions of corporate strategy and corporate governance.

The criteria for the optimum board must be (i) that the members collectively have the competencies and skills necessary for dealing with the various issues involved in developing a strategy for the enterprise; and (ii) that the composition of the board is such that the members are led effectively and can work together to

arrive at effective decisions. These are the key factors that must be considered by nominating committees and chairs when putting a board together. Obviously they must be considered within the regulatory framework in which the board operates. That regulatory framework sets forth the conditions that must be met to assure independence of members. Unfortunately, it does not deal with competency and/or behavioral characteristics and yet it is these two factors, when associated with the development of strategy of the corporation which, other things being equal, will, commonsense and growing research tells us, determine how effective the corporation performs for its owners – the shareholders.

There is no secret why these two factors have not been given the attention that they should. The fact is that because of the impenetrability of boards no one really knew how decisions were made and what competencies were essential for the development of successful corporate strategies. And yet it is successful strategies that lead to high levels of financial performance. In short, in spite of the fact that researchers have been unable to find any proven correlation between good corporate governance, as usually defined in terms of structure, and corporate financial performance, commonsense tells us that it must exist. And in fact it does. But the critical factor in establishing the relationship between good corporate governance and corporate financial performance is not the structure of the board but the capabilities of the board to participate in strategy formation and implementation. In turn that capability exists within a board to the extent that directors are chosen for their competencies and their decision-making characteristics. When these two conditions are correct the correlation between good corporate governance and corporate performance can be clearly demonstrated. ■

Table: Twelve Questions to Determine Whether Your Board is Effective at Strategy

1. Does your board and management spend time to develop your shared commitment to your company's long term direction (*e.g.*, at a retreat where vision, strategy and values are discussed)?
2. Does your board set the broad parameters for management's preparation of your company's strategic plan?
3. Does your board approve the strategic plan only after conducting a rigorous review (including considered board input) of that plan?
4. Does your board have a thorough understanding of the key drivers (including risks) affecting your company's performance (including its competitive, financial and other strategic challenges)?
5. Does your board have a thorough understanding of what is required to execute your company's strategic plan successfully?
6. Are strategic issues are presented to your board with adequate time for reflective thought (including to enable off-line communication among directors and effective questioning of management during board meetings)?
7. As part of major strategic initiatives, does management present a report on alternatives considered (including on what basis and why the alternatives were rejected)?
8. Is your company's business plan (including budget and financial and non-financial key performance indicators / metrics) aligned with your strategic plan?
9. Is the remuneration of management highly correlated to the achievement of your company's plans (*i.e.*, strategic plan, business plan and budget)?
10. Does your Chief Executive Officer welcome your board's constructive input into your company's strategy (*i.e.*, by being sufficiently candid, open and responsive and encouraging the same from direct reports)?
11. Does your board foster a culture of innovation in all areas of your company?
12. While it is difficult to anticipate every contingency, are your board and management well prepared to handle a crisis situation?

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The World View from Davos

You have to forgive the world's movers and shakers who assemble each year at this Swiss ski resort for being megalomaniac. Their job is to pontificate to lesser mortals how to run businesses and governments. As John Thornhill of Financial Times reports, anyone who can describe a trend as the biggest, the newest, the hottest or the scariest is guaranteed to keep the audience agog.

Here is what the world's leaders said about the global economy and its future in what was described as "The Big Debate: setting the business agenda".

Larry Summers, president of Harvard University and a former US Treasury secretary, said that the world was probably experiencing the third biggest economic revolution of the past millennium alongside the Renaissance and the Industrial Revolution. The resurgence of China and India and the impact of disruptive new technologies were revolutionising the global economy. "We live in a mark-to-market world where everything is tested against market forces every day," he said.

Other speakers expressed the sense that history was accelerating and time was being compressed. There were concerns that the institutional framework for global integration, such as the international trade regime, was too weak while some of the scariest threats would result from local disintegration. "People have been trying to create a global village. But this dream is over," said Peter Brabeck, chairman of Nestle, the world's biggest food company. "Regions are drifting apart. We are also, drifting apart within regions themselves."

Sir Martin Sorrell, chief executive of WPP, the advertising group, said the pace of change and the disintermediating effects of new technologies meant that companies would have to innovate more effectively and differentiate their products in the marketplace. He sounded a particularly ominous note for many multinational companies: "I think it is almost impossible for traditional companies and traditional structures to adapt quickly enough."

In a separate session, Graig Barrett, chairman of Intel, emphasized that the threats to these big companies often came from disruptive new technologies and start-up firms: "If you look at the challenges to established companies, they do not usually come from other established companies but start-ups." The biggest challenges to Microsoft have been start-ups out of universities: Netscape, Yahoo and Google."

These over-arching themes – among several others – were debated in six off-the-record chief executive workshops to which the Financial Times gained exclusive access. CEOs, government officials, economists and academics were asked to brain-storm about what the world would like if the global system broke down and intellectual property rights were no longer enforceable. How could traditional companies recruit, retain and stimulate the most creative employees and become more innovative?

Some of the most radical thinking came in the sessions on how to attract the world's most creative people and how to turn their good ideas into money-making propositions.

Roger Martin, dean of the Rotman School of Management at Toronto University, who led one of these discussions, said there would be increasingly intense competition to win the loyalty of the world's "creative class", generator of value for so many modern corporations.

Citing Peter Drucker, the management writer, he suggested that companies would have to treat their employees like volunteers: every day they would have to provide compelling reasons why their most talented employees should keep coming to work. It would not just be about money; chiefly it would be about building socially valuable corporate communities in which individuals felt valued. Managers who could create such communities and inspire their most creative employees would be like gold dust: "Finding community-building talent is the single most precious resource in the modern world."

Many chief executives acknowledged they would have to find far more flexible ways of dealing with their creative stars by "individualising" their jobs and delegating much more trust down the organisation. More attention would have to be paid to making working lives more family-friendly, more exciting and more diverse. Many companies allow chief executives to serve on other companies' boards and advise charities, in the belief that this broadens their experience and stimulates their thinking. Why not allow your talent to work elsewhere, too, for the same reasons?

If the aim truly is community building, should you then allow your stars to hire their friends? That could pose big problems within corporate hierarchies but it would certainly help ensure continued loyalty. How about giving your staff more leeway to pursue their creative mission? One business woman from a leading internet company suggested adopting the "rule of 10" - if

an employee had a good enough idea, give them 10 people, 10 months and $10m (£5.7m) to turn it into reality: "We want marines not mercenaries. You want people to come to work to achieve a mission; you do not want people who would just sell their services for the highest price."

There was heated debate, though, about how far such star treatment should be extended. The obvious danger is that by giving exceptional treatment to the most talented staff you only alienate the rest. Why not treat everyone in the company the same way? But then how do you deal with those who abuse your trust?

Although big, hierarchical companies might not be good at encouraging their employees to dream up radical new ideas, they should at least excel at understanding their marketplace and turning projects into reality. Innovation is not just having a good idea; it is also about deployment, as US venture capitalist Geoffrey Moore noted.

Several chief executives said it was vital to create a culture in which ideas could bubble up to the surface from anywhere in the organisation. Those specifically entrusted with innovation should certainly not have a monopoly on the subject. But it was equally vital to sift these ideas efficiently and kill off the bad ones quickly.

"We took on too many projects and never invested in any one sufficiently enough to ensure that they succeeded," said one ex-industrialist. "We said our strength was focus, but we focused on everything."

One US pharmaceuticals executive said his industry had been grappling with this issue for decades. You had to be as sure as humanly possible that a new drug was going to work before you pumped hundreds of millions of dollars into its development. Killing bad ideas was almost as important as coming up with good ones. Such a ruthless culling process helped ensure that a company maximised its chances of success by focusing all its time, effort and resources on the most likely winners.

If any one theme emerged from all the business issues discussed at Davos it was probably provided by Larry Page, co-founder and president of Google, and his ubiquitous disciples: "Have a healthy disrespect for the impossible."

In a session with 50 technology pioneers, Mr Page casually chewed over the possibilities of revolutionising the global energy industry or tackling poverty in developing countries. His philosophy was that you had deliberately to seek out the toughest challenges because that was where the greatest opportunities lay.

"You might as well do some social stuff because that is where the big problems are," he said. "If a lot of people come out of poverty that is a tremendous business opportunity." ■

The Business Challenge

The Big Debate at the WEF discussed some leading business issues raised in a survey of public opinion. Last year, Gallup interviewed 50,000 citizens in 68 countries about their concerns in a globalising world:

What is the most important global challenge the business environment must adapt to?	(%)
Advances in technology	40
Emergence of new economic powers	21
Expectations of next generation	21
Globalisation of democracy	11
Don't know/no response	7

What is currently the most important risk to the global economy?	(%)
Higher oil and commodity prices	34
Global economic imbalances	26
Potential disruptions (pandemics, natural disasters, political unrest)	17
Financial instability	9
The rise of fundamentalism	6
Don't know/no response	8

What are the most important issues that global business and society face?	(%)
Risks to the global economy	29
Need for new mindsets and attitudes	14
The emergence of China and India	13
Creating enough jobs in the future	11
Regional identities and struggles	3
Don't know/no response	30

Source: WEF/Gallup International Association. Voice of the People 2005

THE CHALLENGE OF SOCIAL RESPONSIBILITY AND CORPORATE GOVERNANCE FOR HONG KONG COMPANIES

*Joseph Chan

Corporate governance is a complex subject. It is related to theories of philosophy, politics, law, confidence and business ethics. The actual applications of corporate governance may range from the clarification of ownership, board composition and guidelines of independence for the independent directors to the conducting of investors' relations. Although one may regard it as a topic simply about the protection of shareholders' value and the idea of social responsibilities of companies. The social responsibility of a company is a matter connected with corporate citizenship, a philosophical image of a multi-national company on the global market. To family-controlled companies in Hong Kong, corporate governance is a new challenge. The debate is cultural inclination[2] rather than financial or technical capacity to meet the regulatory requirements and the expectation from the public.

As owners of the company, there is a good reason why shareholders demand that their investment should be protected. On the other hand, the developing notion of corporate social responsibilities is quite controversial. The fundamental moral argument is that any member of a society, whether a person or a company, is supposed to have a sense of responsibility towards the society.

Corporate governance as a practice is about complying with a set of expected behaviour referred to as a code of corporate governance practice. The required rules may be embedded mainly in legislation or a code of practice enforced by the stock exchange as listing rules, or a combination of both.

The challenge of social responsibility and ethics for the directors:

Traditionally, directorships of many Hong Kong companies are mostly given to family members or occasionally offered as a reward for very long service with the company. Competence is not a compelling issue.

No doubt, a director should be a trustworthy person but he or she should also be a competent[3] member of the board, the body that has the responsibility to oversee the affairs of the company. Corporate governance is not just requiring a director to be competent. A further challenge is whether a director is also acting fairly and in the best interests of all stakeholders. This is the current thinking of the ethical standard and a sense of social responsibility of a director. The emerging requirement of social responsibility is certainly new to some Hong Kong businessmen.

A balance of power concept for the controlling shareholder:

It is not easy for a conservative family business to accept the idea of power balancing within the board of directors. It may be dismissed as an unwanted game of conditioning power inside the company. Time is needed for new approaches to be really understood. So, the problem of corporate governance, if there is such a case, would probably be the worries of the powerful executive directors who are also substantial shareholders.

To decide what is to be done and how to go about it is almost entirely a demonstration of power, i.e. a matter of decision making. Careful assessment of a situation is only a procedure, but what matters is who is in charge or who determines and what consequences the person has to encounter if the decision taken turns out to be wrong and disastrous to the company. Therefore, should a director or a very small group of persons decides alone or there should be a kind of independent element in the decision making process. Thus, balancing the power,[4] harnessing the power or conditioning the power of the directors, or whatever similar wording one prefers to use, is exactly what corporate governance is meant and independent non-executive directors (INEDs) are chosen to do the job.

A role for an independent non-executive director of corporate governance:

The role of a corporate governance director is somewhat like an "internal monitor" looking after the interests of all shareholders and other stakeholders. The job is to identify the systemic infirmities of the company, for example, why independent judgment does not exist or nearly non-performing. This position covers not only the dynamics of major internal controls, but also the external task of social responsibility and investors' relations.

The corporate governance director can be elected in the same way as any INED.

As the crux of the question of corporate governance is centred on the assurance of accountability of the board and senior

management, the work of this position should have a strong emphasis on the maintenance of a high ethical standard of the directors and general managers. Further, a more balanced final product of the decision making process or generally more independent judgment is basically why INEDs are needed. However, the role of the corporate governance director is significantly different from other INEDs. The function is a built-in control system showing to the public that the company actually has a series of preventative measures to ensure good corporate governance including the "containment of human shortcomings" by a human device. Perhaps this can be described as a mechanism designed to contain the kind of human weakness that had happened in cases like Enron or Refco, the US commodity broker.

Development in Hong Kong:

After the 1992 UK Cadbury Report, the Hong Kong Stock Exchange adopted a Code of Best Practice in 1993. Not much has been done[5] since the issue of the Code of Best Practice until the release in January 2003 of the Corporate Governance Action Plan by the Financial Services and the Treasury Bureau, the coming into force on 1 April 2003 of the Securities and Futures Ordinance (SFO)[6] and the launching of the June 2003 SCCLR[7] Phase II Corporate Governance Review. After consultation, the Hong Kong Stock Exchange stepped further by changing the listing rules for both the Main Board and the GEM on 1 January 2005 with transitional arrangements.

A new Code on Corporate Governance Practices (Code on CGP) replaced the Code of Best Practice in Appendix 14 of the Main Board Listing Rules and the new Rules on the Corporate Governance Report (CGR) were inserted in the Main Board Listing Rules as a new Appendix 23.

As to the GEM Listing Rules, the Code on CGP was inserted as a new Appendix 15 and the CGR was treated as a new Appendix 16.

The Code on CGP is classified into five sections with each section containing Code Provisions and/or Recommended Best Practices (RBP). For Code Provisions, the issuers, i.e. the listed companies, must comply or if not complying, must explain, similar to the "comply or explain" practice of the U.K. The Code Provisions are standards of board practices and issuers must state their compliance or explain why they are not complying in their interim and annual reports. For RBP, the issuers are encouraged to follow, but there is no requirement of "comply or explain".

The five sections of the Code on CGP cover the following:

A. Directors

B. Remuneration of directors and senior management

C. Accountability and audit

D. Delegation by the Board

E. Communication with the shareholders

The Code on CGP applies to both the Main Board and GEM, except quarterly reporting[8] which is recommended for Main Board issuers but mandatory for GEM.

The Corporate Governance Report is required in the annual report of all issuers, Main Board or GEM. The information contained in the CGR is important as rating agencies will normally use the information as part of the materials to form an assessment of the corporate governance practices of the companies.

Maintaining good corporate governance by the listing rules:

In Hong Kong, there are two sets of listing rules, i.e. the Main Board Listing Rules, formally known as the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Ltd. and the GEM Listing Rules, called the Rules Governing the Listing of Securities on the Growth Enterprise Market of The Stock Exchange of Hong Kong Ltd.

As the names imply, the listing rules are rules of the Stock Exchange of Hong Kong Ltd., a wholly-owned subsidiary of Hong Kong Exchanges and Clearing Ltd. which is itself a listed company. Therefore, the listing rules are not laws of Hong Kong.

There is a tendency that some rules of the listing rules may in future be given statutory backing[9], i.e. a number of rules of the listing rules may be enacted as law and a breach is regarded as a breaking of the law, thus a criminal offence. The present enforcement by the stock exchange is usually by way of censure or at worst delisting.

What will be good corporate governance in Hong Kong – the possibility of three degrees or levels of compliance:

If one uses the benchmark of complying with the Code on CGP and the Rules of CGR, then the question of whether all listed companies will follow the Recommended Best Practices (RBP) will arise. As the RBP are not required to be followed, some companies may follow all the RBP, some may follow certain RBP and some may not follow any. There will probably be three degrees or levels of compliance and it is practically not easy for ordinary investors to differentiate them, except perhaps those companies that have clearly stated in their communications to shareholders that they have complied fully with the Code Provisions and the RBP.

It may take some time for certain controlling shareholders of Hong Kong listed companies to realise the real benefits to them and to the society as a whole that a good image of Hong Kong and the trust of the international investing public are necessary ingredients of the long term success of Hong Kong as a leading financial centre.

Corporate governance is about controlling power with a good aim of promoting prosperity through adopting

Double Standards in Corporate Takeovers

Double standards still exist in national responses to corporate takeovers even in today's globalised world. Last week when the Luxemburg steel giant Arcelor received a take over bid from UK's Mittal Steel, Arcelor's Chief Executive Guy Dolle, turned bonkers and called it a 150% hostile bid and accusing Mittal of poor corporate governance. In support came the French government. Alan Johnson, UK Industry Secretary, openly lamented the French resistance to the take over. Soon thereafter, the ball was in the UK's court.

Gazprom, the Russian gas giant, showed interest in Centrica, the UK's largest energy retailer and owner of British Gas. There came an immediate warning from the UK government that Gazprom would face "robust scrutiny if it tried to take over Centrica". While the intention of Gazprom to take over Centrica could be suspicious, Centrica is no strategic UK asset. More than 60% of its enterprise value comes from reselling other people's gas and power through other people's pipes and wires. It will be wrong to oppose the take over in a liberalised world where consolidation and integration could create value for the customer.

After all Centrica's fast rising wholesale energy prices have left it rather vulnerable and the take over does give an advantage of upstream integration. ■

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sound independent judgment in important corporate decisions. Cordial relationship within the board is always needed to ensure smoothness in the decision-making process.

Different styles of compliance with the Code Provisions and RBP:

The flexibility allowed is understandable as what is a proper way to illustrate good corporate governance is by far a much debated topic internationally as new ideas are put forward from time to time. There is no truly internationally agreed style or standard. In Hong Kong, one may possibly come across at least three styles in following the Code Provisions and RBP. The prominent style is likely to be that of the local Chinese companies. Another would be a Westernised style. Thirdly and increasingly, the style from Mainland Chinese companies[10] will be quite obvious. For the layman, difficulty in comparison is unavoidable.

Conclusion:

Companies, today, are viewed as efficient vehicles of wealth generation. Nevertheless, the financial gain is not purely a personal reward for the privileged few and the shareholders. The work of the people and the government contributes a lot to the prosperity of the companies. If there are no decent hard-working people, well-run government and stable international environment, how can companies prosper. Therefore, there is a "hidden duty" on the part of companies to be socially responsible and good corporate governance is a way to make sure that the companies fulfil this social commitment and be good corporate citizens.

For companies, the integrity of the capital market is vital to retain the trust of investors, both local and international. The cost of capital is lower for a company with a recognised good corporate governance practice. Generally it still takes time for Hong Kong businesses to adapt to the new international trend of good corporate governance as a business goal. An on-going promotion of the culture of good corporate governance is needed to achieve this. ■

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[2] The personal willingness or political will to face a new era of social fairness and justice. P.1

[3] For example, the duties of care, skill and diligence under common law. For duties of a director, see the brochure titled "Non-statutory Guidelines on Directors' Duties" published by Hong Kong Companies Registry in January 2004.

[4] Corporate governance in one practical sense is about balancing the powers of the executive directors by the INEDs to ensure the peace of mind of investors. P.2

[5] The change of sovereignty in 1997 may be one of the reasons of the slow progress. Since Hong Kong is now a sub-system of China, systemic weakness if any may not solely originate from local Hong Kong conditions.

[6] SFO consolidates 10 ordinances. The effect in general is the protection of investors thus playing an important part in corporate governance.

[7] SCCLR is the Standing Committee on Company Law Reform. The final recommendations of the Phase II Corporate Governance Review were issued in January 2004. P.3

[8] Quarterly reporting is a debatable topic. P.4

[9] See Page 26 of the Hong Kong Chief Executive's 2005-06 Policy Agenda. P.5

[10] Due probably to the lower cost of listing and a number of other reasons, it is now considered fashionable for large state-owned enterprises and other smaller privately-owned companies in Mainland China to seek a listing on the Hong Kong stock market. P.6

Corporate Governance As Practiced in Life Insurance Corporation of India

*A K Shukla

Corporate Governance is a subject, which has started engaging the attention and thought of Corporates increasingly day by day across the globe. However, before coming to the Corporate Governance practices in L.I.C , I would like to just touch upon the background and major elements of Corporate Governance as they have emerged today and thereafter show how practices in L.I.C. match up to those major elements.

The concept of corporate governance came into prominence in the late 1980s when numerous companies collapsed in the U.K. because of inadequacy of operational controls. Such conspicuous corporate failures arose primarily because of poorly managed and at times dubious business practices.

The consequence of such failures led to the setting up of the Cadbury Committee on Corporate Governance in 1991 by the London Stock Exchange.

Later, in 1998 the Organization for Economic Cooperation and Development evolved the principles and the Confederation of Indian Industry evolved a desirable code of corporate governance. In 1999 the Securities & Exchange Board of India (SEBI) formed the Kumar Mangalam Birla Committee on Corporate Governance. Now, the focus of all reports was on five pillars of corporate governance:

1) Board of Directors
2) Corporate Objective
3) Audit and other committees
4) Protection of shareholders' rights
5) Disclosure of financial and other relevant information.

It is in this backdrop that I would like to discuss the corporate governance as practiced by LIC. We have seen that the issues of corporate governance came into prominence in the late 1980s and started crystalising in the nineties. However, more than fifty years ago the founding fathers of L.I.C. had built Corporate Governance into the very foundation of the systems on which the corporate structure of this organization was erected.

In his historic radio broadcast on 19th January, 1956 the eve of nationalization, the then Finance Minster Shri C.D.Deshmukh was almost prophetic when he spoke "we will weld together a dynamic and vigorous organization capable of taking insurance to every sector of the people throughout the country and mobilizing their savings, while affording to them complete security together with efficient service".

It was in that sublime spirit of service that this statutory body was created through an act of Parliament known as L.I.C. of India Act 1956.

Let us start with the most important pillar of corporate governance that is the Board of Directors

The Board is constituted under Section 4 of L.I.C. Act which stipulates that it shall consist of sixteen members appointed by the Central Govt. The Act explicitly states that to be a member, the person will have no such financial or other interest as is likely to affect prejudicially the exercise or performance by him of his functions as a member and also ensure from time to time that he will have no such interest.

The Board of any company provides leadership, strategic guidance and objective judgement independent of the management of the company. L.I.C.'s board has always consisted of stalwarts from varied fields who have provided exemplary stewardship and contributed a diversity of ideas to promote growth of the organization. The very first Board had financial experts like Shri H.M.Patel and L.K.Jha and included luminaries like Mohammed Hasham Premji , B.K.Kaul, A. Rajgopalan and D.P.Guzdar. The tradition of having a professional Board continues till date. The richness of our Board today can be seen from the depth and diversity of its membership. We have three members who are holding Doctorates in their respective field of I.T., Law and Economics and whose contribution in their areas is internationally recognized. We have captains of industry from reputed industrial houses like Hero Honda and Nicholas Piramal. We also have a journalist cum Social worker and a Chartered Accountant who is a fellow of the British Institute of Management. Adding to such diversity are the CEOs of a public Sector Bank and a Public Non-Life Insurance Company.

Although it is mandatory for the Board to meet only once a quarter, however, LIC's Board meets about six times in a year. The meetings are marked by an involved participation of Board Members who

- Critically monitor executive performance
- Ensure accountability of the management to the policyholders.
- Provide strategic direction to the management
- Oversee that financial discipline is maintained and
- The interest of the policyholders and other stakeholders are well protected.

To ensure complete transparency, all decisions are recorded in the form of resolutions and an entry of such decisions is made in the book of proceedings as conclusive evidence of the fact that such decisions were taken by the board.

Today's business environment is so complex, it is nearly impossible for a single person or even a small group of individuals to understand all the issues and challenges faced by an organization. Such complexity argues for assembling a team of members whose skills and backgrounds are diverse and complement each other. It gives me a great sense of confidence and as much elation to state that the combined knowledge and experience of the Board Members absolutely matches the strategic demands being faced by the organization.

We now come to the second pillar of Corporate Governance that is Corporate Objectives.

Organizations must have corporate objectives which would act as a guiding path to achieving desired results. Corporate objectives give a focus to the organization and help in the alignment of the human and capital resources towards a clearly directed goal. It is for this reason that Corporate Objectives are an indispensable component of Corporate Governance.

A significant factor for the success and growth of L.I.C. has been the well established, focused and easily understandable objectives of the Corporation. Our Corporate Objectives bring out very distinctly the purpose of the organization, what business we are in, what do we stand for and where we would like to go in the future. A unique feature about our objectives is that though they were conceived decades ago, they have not lost any relevance even in today's globalised economy.

Starting from the basic message of spreading life insurance widely and in particular to rural areas and to the socially and economically backward classes the objectives include;

- Mobilisation of people's savings by making insurance linked savings attractive.
- Deploying funds to the best advantage of the investor as well as the community as a whole, keeping in view national priorities.
- Meet insurance needs that would arise in the changing social and economic environment.
- Involve all people to the best of their capability in furthering the interest of the insured public by providing efficient service with courtesy.

It will be observed that Corporate Direction, Customer Focus and Human Resource Development which are now universally acknowledged as the three key success factors in any enterprise were all inherent in our Corporate Objectives at the time of their formulation.

A critical issue emphasized by the Cadbury Committee was ensuring that power and authority are properly distributed throughout the organization so that no individual enjoys unfettered powers of decision making.

This brings us to the third pillar of corporate governance, the setting up of Audit and other Committees.

Corporate Governance envisages a set of systems and checks which ensure that the company is managed properly and to the benefit of shareholders, employees, customers, suppliers, the government and society. Here again, it redounds to the wisdom and foresight of our founders, who put in place check and control systems through statutory obligations to ensure that the resources are utilized effectively and no individual or group enjoys absolute power.

Section 19 of L.I.C. Act 1956 enshrines that the general superintendence and direction of its affairs and business may be entrusted to an Executive Committee which may exercise all powers as may be delegated to it by the Corporation. The E.C. enjoys vast powers and deliberates on all major issues related to the organization.

A major issue in Corporate Governance for L.I.C. is the management of vast funds. Today L.I.C. has emerged as the biggest institutional investor in the country with a fund size of more than Rs.85.5 billion as on 31.3.2005 and has an asset base of Rs. 97.3 billion. The total income last year was more than 25 billion. Managing such huge funds is no doubt a big challenge and a great responsibility to our policyholders. But here again, the corporate governance mechanism has been statutorily built into our systems. Section 19(2) of L.I.C. Act stipulates the constitution of an **Investment Committee** for the purpose of advising it in the matter relating to the investment of its funds. This consists of eight members out of which not less than four are members of the Corporation and remaining members are persons who have special knowledge and experience in financial matters, particularly matters relating to investment of funds.

You can imagine the arduous task of investment in L.I.C. from the fact that we have on an average to invest about Rs.45 million everyday. The benefits of corporate governance in this vital area become obvious when you view the results flowing from the financial acumen and expertise of the Investment Committee. Our Investment income in the last financial year was more than Rs.33,000 crores. Further, it gives us a lot of satisfaction to note that the average return on the life fund as on 31-3-2005 was 9.93% notwithstanding the

fact that the interest rates have fallen drastically in the last five years.

Another factor which bears evidence to our faith and commitment to Corporate Governance is the establishment of an independent **Audit Committee.** Here I may add that unlike the E.C. & I.C., L.I.C. was under no statutory obligation to set up an Audit Committee. Yet, our belief in exercising financial prudence and upholding the propriety of our systems and procedures is paramount. It was with this ultimate faith that the Audit Committee was constituted. You can get a measure of the independence of this committee from the fact that no L.I.C. officer is a member of this committee nor any officer from the top management is allowed to participate in its deliberations, except those who are presenting the accounts. It is with such complete independence that Audit Committee oversees the financial reporting process, reviews the financial statements and adequacy of internal controls and deliberates with the statutory auditors on all major aspects of their work particularly with respect to any significant findings. The final accounts of L.I.C. have to undergo a thorough scrutiny of the Audit Committee before they are placed before the Board.

Apart from the Audit Committee, there is also a statutory provision of Audit of the accounts of the Corporation by duly qualified auditors. The statutory provision also empowers every auditor to have access to the books, accounts and other documents of the Corporation. However, I wish to add that we have a strong culture in our organization to support the external auditors in remaining professionally objective and enabling them to apply their skills impartially as also facilitating them to retain a critical detachment to those who appoint them.

Let me reiterate that a cardinal principle of Corporate Governance is the decentralization of decision making power throughout the organization. Here again although are under no statutory compulsions, yet we have created a very strong framework of decentralized decision making throughout the organization in the form of Management Committees. At the corporate level we have the Central Management Committee. This is a powerful organ of the organization consisting of all the members of Top Management in the cadre of Executive Directors and Chiefs in Central Office and 7 Zonal Incharges. The purpose of having a wider management committee is to have more involved decision making, draw experience and inputs from a larger number of senior executives of the Corporation to contribute in forming operational policy, improving supervision and implementing various decisions taken.

Likewise we have the ZMC, DMC and BMC at the Zonal Divisional and Branch Level.

Corporate Governance to be really effective has to be articulated not merely through documents but through visible corporate actions that truly reflect the spirit behind the letter. A befitting testimony of our commitment to collaborative decision making is the Sr./Divisional Manager's annual conference. This is held every May and involves keen participation of all Executive Directors and Chiefs of Central Office, all Zonal Managers and all Divisional Incharges.

The business challenges and key corporate issues are deliberated threadbare through highly involved brain-storming sessions and the emerging ideas are distilled over a period of three days. The outcomes are grouped under the indicative caption 'We Have Decided' and become the path setting decisions and the pivot of organizational efforts for the ensuing financial year. Since these decisions are arrived at through highly involved collaborative exercises they create a tremendous sense of ownership and are implemented with a mission throughout the organization.

We now come to the fourth pillar of Corporate Governance which in our case is

'Protection of Policyholders' Rights"

I need not dwell on the importance of the customer in a fiercely competitive business scenario. In fact the entire focus of global corporations today is on customer centricity, so much so that the very first of the eight quality management principles of ISO 9001:2000 system is 'Customer Focus'.

One can gauge the foresight of our founders who gave prime focus to the customer more than fifty years ago when the concept of customer focus in the market was not even at the embryonic stage.

Statutory guarantee was provided to the policyholders money under Sec.37 of L.I.C. Act whereby the sums assured by all policies issued by the Corporation including any bonuses declared were guaranteed as to payment in cash by the Central Government.

The spirit of our commitment to the customer can be deduced from the fact that at the time of nationalization in 1956, 29 Private Insurance Companies had become insolvent. Although there was a statutory provision under Section 14 of L.I.C. Act to reduce the amounts of insurance under the contracts of companies found to be insolvent, yet L.I.C went ahead and paid Rs.1.6 million to all the 1,16,000 policyholders of these deficit companies.

Today, a universally accepted principle of a good governance system is to generate ideas through participation of all stakeholders. To that extent corporate governance goes beyond the reach of company law and becomes a proactive process of creating excellence and enhancing the value of the firm by inculcating corporate democracy and transparency in operations.

Even such considerations were statutorily in built in L.I.C's systems in

1956. Section 22(2) of L.I.C. act envisages each zone to constitute a Board for the purpose of advising the Zonal Manager in respect of such matters as are referred to it under the regulations made by the Corporation. All our seven Zones have well constituted Zonal Advisory Boards consisting of twelve members out of which ten members are meticulously chosen from diverse fields. They are persons of eminence and known for their integrity and contribution to society. Though the ZABs are only recommendatory bodies, yet a lot of importance is attached to their suggestions which are placed before the Central Management Committee.

To further elaborate on the in-built customer focus in our systems, there is a provision in L.I.C. Regulations 1959 that the Corporation may establish a Policyholder's Council for each Divisional Office. L.I.C. has regularly constituted PHCs for each Division, consisting of five members who are representatives of policyholders resident in the areas served by the Divisions. It is also ensured that out of five members one is a woman, one from SC/ST and one a Consumer Activist. The PHCs generally meet once every quarter. This becomes a good forum to get feedback from our customers on varied issues. Issues pertaining to policy servicing, outstanding claims, opening of new branches, and product development are referred to it for discussion. With hundred divisions in existence today, this becomes a strong force of five hundred members across the country to provide invaluable customer feedback to the Corporation.

We have already seen that checks and control mechanisms are critical elements in Corporate Governance. While L.I.C. has very robust systems and highly documented procedures, the nature of Insurance business is such as to leave some scope for discretion. Here again care is exercised to ensure that claimants do not become victims of such discretion. For this purpose L.I.C. has established Claims Review Committees for reviewing repudiated death claims. Although, the number of death claims repudiated is very small, yet opportunity is given to the claimant to make a representation to the Review Committees at the Zonal Offices and at the Central Office. Again, in keeping with the principles of Corporate Governance to provide transparency in our operations the Central and Zonal Claim Review Committees have among their members, a retired high court or a district court judge. This provides impartiality in decision making and ensures fairness and justice to the claimants.

LIC also has in place Policyholders' Grievance Redressal Cells in all the offices of the Corporation ,headed by senior officers. The policyholders can approach them on any day for the redressal of their grievances and can do so on every Monday without prior appointment between 2.30 p.m to 4.30 p.m.

So far, we have focused on the external customers. However, in management literature a lot of emphasis has been placed on internal customers. Here again, LIC has constructively used the vast pool of talent that exists in our internal customers, namely the employees and agents.

We have devised a system of information sharing with our unions and officers' associations. Such information sharing sessions are held periodically with representatives of our unions and associations jointly. These sessions have become a constructive forum for free and frank discussions where the employees' representatives very closely confabulate with the top management in an open and informal atmosphere. The informality notwithstanding, these information sharing sessions have become a very effective platform of understanding mutual perceptions and an avenue to develop consensual approaches towards conflicting issues. These have contributed immensely towards industrial harmony of which LIC has an almost unblemished record.

LIC has biggest Agency organization in the world. However, what is significant about our agency force is not the number alone but the vast repertoire of talent and experience they carry. Agents too have been incorporated into our corporate governance system through Informal Consultative Committees. Such committees have been established at the divisional, zonal and corporate levels and again provide an effective forum for a free and frank discussion on the issues involving the field-force. These committees also provide a dynamic platform for idea-exchange. The committees help generate suggestions that flow to the corporate level and facilitate the process of addressing the concerns of the field-force.

LIC has its apex training centre in Borivali, Mumbai. This is used for conducting in-house residential training sessions for senior officers. One of the training methodologies used in the training programmes is Group Discussions . In almost every programme such topics are selected for discussion which have a high relevance for the functioning of the organization. The group reports are forwarded to the HODs of Central Office and selected ideas are placed in the CMC. Thus, our training centre provides a forum to our senior officers to not only discuss the major issues of the organization critically and frankly but also an avenue to send their suggestions to the top management.

Finally, we come to the fifth pillar of Corporate Governance that is

Disclosure of Financial and other Information. The corporate governance framework should ensure accurate disclosure is made on all material matters regarding the corporation, including the financial situation and governance of the company. Access to regular, reliable and comparable information in sufficient detail provides stakeholders a means to assess the stewardship of management

Here again disclosure is in built in our systems statutorily. Section 27 of L.I.C. Act provides that the corporation shall after the end of each financial year, prepare and submit to the Central Government a report giving an account of its activities during the previous financial year and the report shall also give an account of the activities which are likely to be undertaken in the next financial year.

L.I.C's annual report is regularly prepared every year and tabled in the Parliament. The annual report provides a wealth of information on almost every aspect of the working of the Corporation. Apart from the regular financial and valuation statements it provides a summary of the activities of each and every department of the Corporation.

While preparing the annual report it has always been our corporate endeavour to apply high quality standards to significantly improve the ability of our stakeholders to monitor the corporation by providing increased reliability and comparability of reporting and improved insight into company performance.

Good Corporate Governance has always inspired us to practice operational transparency, information sharing, accountability and continuous dialogues with all the stakeholders in addition to formulation of value-based policies and practices at all levels.

The practice of good Corporate Governance has enabled us to strengthen the confidence of stakeholders, maintain a healthy industrial climate within the organization and improve customers focus. This has helped us not only achieve an all time high rate of growth in business but also withstand the pressures of change in the external environment and make LIC a great and dynamic organization. ■

*A K Shukla, Chairman, LIC of India

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Acknowledgement Contribution of Shri M.K.Kukreti, Secretary (Board Secretariat), LIC of India.

Dinner date that sparked the steel row

A dinner date on the evening of Friday January 13 may turn out to have been propitious for Lakshmi Mittal, the billionaire entrepreneur who is chairman and majority owner of Mittal Steel.

Mr Mittal invited to his palatial London home Guy Dolle, the French chief executive of Arcelor, the Luxembourg-based steelmaker which is the number two in the global steel industry, behind Mittal.

There he discussed briefly an idea that the Indian metals magnate and his advisers had been quietly working up over the previous couple of months - that Mittal and Arcelor should combine forces to create a global giant that would be three times bigger than its closest steel industry rival.

“Mr Dolle did not agree to the idea,” said Mr Mittal yesterday - although he refused to enter into details of exactly what was discussed.

However, the plan certainly did not go away. Yesterday morning Mr Dolle awoke to hear the news that Mittal had made a daring •18.6bn ($22.5bn) offer for Arcelor in a bid that the Luxembourg company formally categorised as “hostile”, although Mr Mittal said he hoped the bid could turn into a friendly one.

The two men know each other extremely well and have a lot in common. Both have an informal style and are keen on football - Mr Mittal shows a fondness for Fulham in the English premier league while Mr Dolle is a fan of AS Nancy, of France’s Ligue 1. His favourite player is Arsenal’s Thi-erry Henry, another Frenchman.

Both also are advocates of pushing on with steel industry consolidation as a way of creating more global companies with a stronger capability to dictate prices to customers and create better profits for their shareholders.

In the past few years, both men have pushed on with numerous acquisitions, taking Netherlands-headquartered Mittal to production of an estimated 63m tonnes last year and Arcelor to 50m tonnes.

It is thought Mr Dolle turned down Mr Mittal’s outline scheme at least partly because he felt put out by the notion that - if his rival took over Arcelor - then he would lose his opportunity to stamp his own consolidation strategies on the industry.

Mr Mittal went to some pains to point out that he wanted to have “full discussions” with Arcelor about the idea of “a merger of equals” in which there would be “ample space” for Arcelor’s management.

But he said it was “premature” to say what room, if any, could be found for Mr Dolle in a new and enlarged company.

No-nonsense judge emphasises significance of Enron trial

Outside, television satellite trucks lined the street. Photographers and cameramen sat under tents munching potato chips and talking into mobile phones, waiting for the defendants to return from lunch. Police on horseback patrolled the area, as workers watched the media circus. The trial of Ken Lay and Jeff Skilling, Enron's former chief executives, began yesterday in Houston with jury selection the first order of business.

Mr Lay and his wife, Linda, held hands as they entered and left the building.

Mr Lay's lawyers travelled separately. Mr Skilling stepped in surrounded by five lawyers.

Both men are well known in Houston, a city that looked up to them when Enron was the seventh biggest company in the US, and turned its back when the group went bankrupt in 2001.

Mr Lay, 63, is charged with fraud and conspiracy. Mr Skilling, 52, is accused of fraud, conspiracy, insider trading and misleading auditors. Both say they are innocent.

In most cases, jury selection is completed in several hours. In this case it has taken months, with a pool of almost 300 potential jurors answering a 14-page questionnaire to help lawyers decide if the respondents could be impartial. After eliminating those with apparent bias, the court called 96 jurors yesterday for the final elimination process. "I can assure you this will be one of the most interesting and important cases ever tried," Judge Sim Lake told them.

The fraud perpetrated by Enron was so far-reaching it provoked a crackdown on corporate America that has convicted high-profile executives such as Bernie Ebbers, former WorldCom CEO, and forced the US government to tighten control in US business. Mr Ebbers is appealing.

When Judge Lake asked if any potential jurors were concerned about their ability to be impartial three raised their hands. After huddling with the lawyers before the judge he ordered them back to their seats.

By the end of the day, 10 women and six men had been picked. The judge warned them against discussing the case with anyone or doing any independent research, including reading or listening to anything in the media about Enron. ■

Arcelor said a fuller response would come only when its board has pondered the bid in the coming days.

Assuming the deal goes ahead, it would be the latest - and most ambitious - takeover by the 55-year-old Mr Mittal, who grew up in India. His interest in metals was fired by helping his father to run the family's privately owned steel company.

Called Global Steel, it is run in India by Vinod and Pramod Mittal, Lakshmi's two younger brothers.

Lakshmi started to go global at a relatively young age, running a steel company from 1976 onwards in Indonesia that his father had given him the cash to buy. From here, he pushed through a run of acquisitions, taking in steel mills in countries such as Canada, Trinidad, Kazakhstan and Mexico, building them up to form the basis of a large private steel business called LNM.

After winning a large toehold in the US in 1998 through the $1.8bn purchase of Inland Steel, Mr Mittal made other large purchases in eastern Europe - most notably in the Czech Republic, Poland and Romania -before doing a deal that for the first time made him a well known name in the business world. That was the $21bn merger in October 2004 between his private steel interests and International Steel Group, a large Ohio-based steelmaker, that made the newly named Mittal Steel by some way the world's biggest steel producer ahead of Arcelor.

In spite of his huge wealth, in many ways Mr Mittal has the manner of a man of quite a humble background. He has none of the pomposity that infects some high-powered business executives - and is very keen on seeing a lot of his close family.

In a business sense, the most valuable person in the group is his 30-year-old son Aditya, a merchant banker by training. He has worked for Mittal for nine years and has the post of chief financial officer, with particular responsibility for takeovers. ■

NEWS & VIEWS

Long Overdue UK Company Law Reform Bill Creates Jitters

UK business and legal luminaries are deeply worried of the impact of the long overdue Company Law Reform bill. They fear it will lead to a significant increase in litigation against directors. Leading law firms have warned the government of its adverse effect to increase pressure on the government to bow to business demands to amend its proposals.

Gary Milner-Moore, a litigation partner at Herbert Smith, yesterday predicted that the company law reform bill going through parliament would "without a doubt, in the short-term" lead to more litigation by shareholders against boards. "Longer term, it's going to depend on what the courts do - they could apply sensible principles and it will calm down but it could go the other way," said Mr Milner-Moore. "Whether ultimately many of these claims succeed, there will be more of them, if only as a tactical device."

Freshfields Bruckhaus Deringer, another leading law firm, endorsed this warning. Vanessa Knapp, a corporate partner at Fresh-fields, said: "Everyone worries that we're living in a more litigious age, where shareholders won't hesitate to take action against directors where they think it's advantageous to do so."

The forecast of increased litigation once the bill is enacted coincided with investors adding their voice to the mounting criticism of the proposed legislation. The Association of British Insurers, which represents many of the country's biggest institutional investors, said it shared business concerns about the bill's requirement for directors to "have regard to" such issues as employee interests and the environment when making decisions.

"The principle that companies should take account of these issues where they are material is a good one, but you can't operate this principle in such a legally demanding way," said Peter Montag-non, the ABI's director of investment affairs. "The concern is that it binds directors legally in an unhelpful way."

But the increasing volume of criticism - fuelling warnings by the Tories that they will fight to change several sections of the bill - does not mean the government is in serious trouble over the legislation. Instead, it paves the way for extensive parliamentary wrangling over the detailed wording of certain parts of the mammoth bill's 885 clauses.

Business and investor organisations stressed their support for the main thrust of the bill, which should reduce the legislative burden on smaller companies. "This bill is long overdue and we stand by its good intentions," said Miles Templeman, director-general of the Institute of Directors. "Now it's just a case of checking that the wording is clear."

The CBI employers' body said it supported the "enlightened shareholder value" principle, whereby the directors' duty to act in the best interests of shareholders encompasses decisions that could affect the long-term value of shares, such as damage to the environment.

John Cridland, CBI deputy director-general, said: "Our concerns are technical but they are significant. As ever with complex bits of technical legislation, the more business has looked at [the bill's wording on] directors' duties, the more it has said that the intent will not be delivered by the drafting and will be counterproductive."

Business is worried the bill's definition of directors' duties will cause uncertainty and increased litigation, undermining the common law principle that the courts do not overturn business decisions taken in good faith by the directors.

The Department of Trade and Industry said the government did "not accept the courts will be more likely to interfere in directors' business judgment" as a result of the bill. But business organisations point to its lack of explicit reassurance to this effect.

The CBI is concerned at the drafting of the clause requiring directors to "promote the success" of the company - a concept not tested in common law - and "so far as reasonably practicable" to have regard to non shareholder interests. These third-party interests include employees, suppliers, customers and the impact of the company on the "community and the environment".

Directors' duties are no the only source of contention. Some lawyers argue the clause banning director; from having conflicts o interest will act as a freeze on many serial directorships There are concerns the clause codifying the common law right of shareholder to sue directors on behalf c the company will unintentionally extend that right, potentially

opening the door to more vexatious litigation by aggrieved lobby groups and disgruntle' shareholders.

The DTI believes such concerns are overblown. But the government signalled its willingness to haggle over the detailed wording of at least some clauses. "We recognize that the law in this area is complex and we welcome the prospect of detailed parliamentary scrutiny of the proposed statutory statement of directors' duties," said a DTI official. ■

Record Profit of $23bn at Shell

Royal Dutch Shell has reported record profits of $22.9bn for 2005 despite the impact of hurricanes in the US and recent unrest in Nigeria.

The group reported current cost of supply profits, the industry standard, for 2005 up 30 per cent from $17.6bn in 2004. Revenues rose 12 per cent to $379bn.

But analysts said earnings were lower than expected and failed to match up to the $36.1bn profits unveiled by larger rival ExxonMobil earlier. The stock fell by 2 ½ %.

Shell said production fell 7 per cent to 3.5m barrels of oil per day (bpd), after hurricanes affected production in the Gulf of Mexico and a production-sharing contract in the Middle East ended. The group added that there would be little, if any, growth in production in 2006.

Jeroen van der Veer, chief executive, said he was confident of finding new oil reserves to replace those pumped from the ground. He rejected suggestions that the world was running short of oil.

"The theory of peak oil, that oil production has peaked, is correct if you look at easy oil close to markets, like west Texas and the North Sea," he said. "But think about deep-water drilling, think about the Arctic."

Mr Van der Veer said Shell would be increasingly looking for oil in frontier areas, as more companies entered the exploration business. "The market will become more and more competitive. We like to go to unconventional [locations], where we can use our project skills."

He said cost inflation would account for about 20 per cent of the extra funds given by Shell to exploration and project development. Shell currently replaces 70-80 per cent of its proven reserves each year, but says it will reach 100 per cent replacement by 2008. It also aims to expand production to between 4.5m and 5m bpd by 2015.

The company has pledged to spend $19bn a year on new schemes, focusing on long-term projects in Nigeria, China, Oman, Russia and Malaysia. This excludes investment in the minority share of the Sakhalin project off the east coast of Russia. Exploration, discoveries, appraisals programmes and new business development added more than 2bn barrels of oil equivalent to reserves in 2005.

Mr Van der Veer said out of 12 "big cat" wells drilled in 2005, seven found hydrocarbons. A "big cat" well is one the company expects to yield 100m barrels of oil equivalent. He said 15 to 20 such wells would be drilled this year, but declined to say where.

Peter Voser, finance director, said Shell was not looking at large acquisitions, in spite of its large cash balance, and was focusing on "bolt-on" deals worth $10bn or less.

Shell's B shares fell 49p to £19.56 in London. ■

Deutsche Bank records 25% return

Deutsche Bank has reached its holy grail of a 25 per cent pre-tax return on equity and pledged to hit the same level of profitability in future, through bad and good years alike.

Germany's biggest bank reported 2005 pre-tax profits of •6.4bn (£4.3bn), up 58 per cent and equivalent to a 25.7 per cent return on equity, thanks largely to another leap in performance at its investment banking division.

When Josef Ackermann took over as chief executive in 2002, the bank had a return on equity of just 4 per cent. However, the achievement yesterday was clouded by a humiliating backtrack on the bank's initial refusal to compensate investors in a troubled real-estate fund.

Deutsche's profits were dragged down by a charge of •203m to cover a compensation scheme for investors in the Grundbesitz-Invest fund, which was frozen in December, pending a revaluation of its holdings. Analysts said the affair -combined with continued under-performance at US mutual fund business Scudder, which suffered a •7bn outflow of assets last year - would put pressure on Kevin Parker, who took over asset management 15 months ago.

Deutsche said it was pleased with overall performance in asset management, with profits up 44 per cent to •597m. The result included an •81m loss related to the sale of businesses in the UK and US, and •220m restructuring.

Deutsche's corporate and investment bank remained the group's powerhouse, generating pre-tax profits of •4.3bn, up 57 per cent, and contributing threequarters of group profits at an underlying level.

The contribution from Deutsche's German businesses continued to shrink - to 30 per cent of revenues last year, compared with 80 per cent a decade ago. ■

Mr Ackermann described the result as “outstanding”. He said: “Our objective now is to sustain, over the cycle, this level of pretax return on equity and double-digit earnings per share growth.”

He confirmed that under the terms of his contract, renewed on Wednesday until 2010, he would “not get a cent” if he resigned as a result of the pending Mai mann retrial into executive bonuses, which he and other directors of the group approved six years ago.

Some analysts expressed concern about Deutsche’s costs being substantially higher than expected in the last quarter of the year. But overall sentiment was positive.

After a 9 per cent rally over the past week, the shares closed down 2.6 per cent. ■

Former executives of Hathaway subsidiary and AIG charged

Three former executives from Berkshire Hathaway’s General Re subsidiary and a former executive at American International Group have been indicted on criminal and civil charges for allegedly engineering a deal that fraudulently inflated AIG’s reserves by $500m, the Department of Justice said.

The 13-count indictment by the DoJ should serve as a warning to executives that helping another company facilitate fraud was a serious violation that merited prosecution, said Alice Fisher, the assistant attorney-general at the DoJ’s criminal division.

The charges allege that Ronald Ferguson, former General Re chief executive; Elizabeth Monrad, former chief financial officer; Robert Graham, former senior vice president; and Christina Milton, a former executive at AIG; took part in a complex scam to cook AIG’s book in 2000 and 2001.

Christopher Garand, another General Re executive, has also been charged by the SEC. An attorney for Mr Garand said his client was co-operating and had done nothing wrong.

An attorney for Mr Milton said his client was innocent. An attorney for Mr Graham said his client had “always acted in good faith” and looked forward to his day in court. The other defendants could not be reached.

According to the indictment, AIG offered to pay General Re $5m as a fee if the reinsurer agreed to a deal that would allow AIG to boost its reserves by $500m through a sham transaction in which no real risk had been transferred.

The indictment includes new details of telephone and email exchanges that indicate executives knew the transactions were dubious. In December of 2000, Mr Graham provided a General Re executive with an email update on the deal, writing: “our group will book the transaction as a deposit. How AIG books it is between them, their accountants and God . . . [AIG] have been advised of, and have accepted, the potential reputational risk that US regulators may attack the transaction.”

In a separate conversation between Mr Graham and John Houldsworth, a former General Re executive who pleaded guilty to criminal charges in June, Mr Graham said: “[AIG’s] organisational approach to compliance issues has always been ‘pay the speeding ticket,’ so, which is different than our organisational approach to compliance. So I’m pretty comfortable that our own skirts are clean but that.. . [AIG] have issues.” In yet another exchange, one executive allegedly told another: “These deals are a little bit like morphine - it is very hard to get off them,” Ms Fisher said.

The charges represent a milestone in the long-running investigation into AIG and its dealings with General Re, a probe that ultimately led to the ousting of AIG’s powerful former chairman, Maurice “Hank” Greenberg, who transformed the company into the world’s largest insurance group.

Both the SEC and DoJ said their investigations were continuing. ■

Enron Trial Begins in Houston

The trial of Enron founder Kenneth Lay and former CEO Jeffrey Skilling, star performers in one of America’s highest profile scam began in Houston. Prosecutors in the fraud and conspiracy trial want to take jurors back 18 years to another time when Lay claimed ignorance of skullduggery in his company. But US District judge Sim Lake said on Thursday he was skeptical whether he would allow jurors in the Conspiracy and fraud trial to hear such evidence when Lay’s actions nearly two decades ago didn’t produce any allegations of crimes.

Since he was indicted in July last year on conspiracy and fraud charges, Lay has repeatedly said publicly that he knew of no crimes committed at Enron in late 2001 when he failed to head off the company’s scandalous collapse. Lay has blamed former finance chief Andrew Fastow for orchestrating schemes that fuelled financial rot behind the company founder’s back. ■

Iraq attack was decided in January 2003, says Professor Phillippe Sands

New evidence shows that Tony Blair and George W. Bush were set on invading Iraq well before diplomatic efforts to secure explicit United Nations support had failed.

In an updated version of his book *Lawless World,* Philippe Sands, an international law professor, says Mr Blair offered his full support for Mr Bush at the White House in January 2003 during a private meeting in which the president disclosed he had pencilled in a March 10 invasion date and suggested military action was inevitable. The president, the book says, also floated a way of tricking Saddam Hussein into breaching UN demands and even talked of assassinating the former Iraqi leader.

The allegations, which are based on the contents of a note Prof Sands says is an accurate summary of the meeting prepared by one of the participants, has once again ignited the controversy surrounding the run-up to the war.

The White House summit on January 31, which was followed by a press conference at which Mr Bush said Iraq had to disarm "within weeks not months", was one of many discussions between the two leaders in the run-up to the conflict. It was attended by a handful of senior US and UK advisers.

At the time, Mr Blair was urging the president to secure a second UN resolution authorising military action. In the event, those diplomatic efforts failed and the US and UK went to war on March 21, three days after a House of Commons vote.

According to the book, a note by one of the participants records Mr Bush reassuring the prime minister "that the US would put its full weight behind efforts to get another resolution and would twist arms and threaten".

But the president is also recorded saying that "military action would follow anyway" and that "the start date for the military campaign was now pencilled in for 10 March. That was when the bombing would begin. The military timetable meant that an early resolution was needed". Mr Bush said the "diplomatic strategy had to be arranged around the military planning".

Mr Blair, the note adds, responded by saying that he was "solidly with the president and ready to do whatever it took to disarm Saddam".

The president is also recorded telling the prime minister that "the US was thinking of flying U2 reconnaissance aircraft with fighter cover over Iraq, painted in UN colours. If Saddam fired on them, he would be in breach. It was also possible that a defector could be brought out who would give a public presentation about Saddam's weapons of mass destruction and there was also a small possibility that Saddam would be assassinated".

The note appears to be a personal record, not a verbatim transcript. Its author remains anonymous.

Sir Menzies Campbell, acting Liberal Democrat leader, accused Mr Blair of rushing into the conflict and said the diplomatic efforts were "simply going through the motions".

Downing Street said Mr Blair had committed British forces only after securing the approval of the Commons on March 18 2003: "The decision to resort to military action . . . was taken only after other routes to disarm Iraq had failed. During this time, there were frequent discussions between the UK and US governments about Iraq. These matters have been thoroughly investigated." ■

UK Government's U Turn on OFR causes confusion

Companies are facing prolonged uncertainty over their reporting obligations as investor groups lamented the government's latest change of direction over operating and financial reviews.

The reversal of the decision, announced by Gordon Brown, that appeared final nine weeks ago was attacked as "farcical" by critics, although representatives of big business stressed they were "relaxed" by the U-turn.

Gordon Brown, announced the scrapping of mandatory operating and financial reviews in November in what he termed "an attempt to cut red tape". But in the face of a legal challenge from Friends of the Earth, the government this week opened a full consultation on the decision.

The move reopens questions about how companies should report on their performance and future prospects at a time when many listed groups are beginning to draw up annual reports for the year to March.

Instead of OFRs, quoted companies will have to comply with less prescriptive European Union requirements, which come into force for financial years ending on or after March 31, but are not yet generally understood.

The consultation over OFRs will last until March 24. Government officials said that if the consultation resulted in any more changes, they would not come into force for at least another 12 months.

"This has all the elements of a Whitehall farce," said Gerald Russell, senior partner of Ernst & Young, the accountancy firm. "There was extensive consultation before the OFR was adopted. What is the point of going through it all again? It would be much better to admit the error and reinstate the original position."

The development of the original OFR guidelines, which have been reissued as a statement of best practice, took seven years.

Peter Montagnon, director of investment affairs of the Association of British Insurers, an influential investor group, said: "There is now, above all for companies who have to

make these reports, a great need for certainty. The consultation process should be expedited but it must be thorough."

John Rogers, chief executive of the UK Society of Investment Professionals, said: "We will re-emphasise that the OFR is very important and should be a statutory requirement." He added: "This is not because good companies are not doing good narrative reporting. It is because less good companies could use the absence of a statutory requirement to avoid providing important information to investors."

The Department of Trade and Industry said it still believed the decision to abolish mandatory OFRs was "sound" but added that the consultation was not merely an academic exercise.

"The government is, of course, open to all views," the department said. John Pierce, chief executive of the Quoted Companies Alliance, which represents smaller listed busi-> nesses, said: "Companies are shell-shocked. The last thing they need is a big interdepartmental argument about whether to have an OFR or not." The DTI once championed OFRs, the chancellor abolished them and the environment department had backed separate reporting guidelines, he noted.

The CBI employers' organisation was more positive. John Cridland, deputy director-general, conceded there would now be an extended period of uncertainty but said: "We believe that the arguments for abolishing the statutory OFR are overwhelmingly strong."

Miles Templeman, director-general of the Institute of Directors, said he was "quite relaxed" about the Treasury's procedural U-turn and emphasised the institute's view that OFRs should be voluntary. "A bit more consultation is not necessarily a bad thing."

Hamish Pringle, director of .the Institute of Practitioners in Advertising, said a reinstatement of mandatory OFRs would be preferable. "This was the first time that companies would be required by law to talk about customers, marketing and market share and all those things that we hold dear," he said. ■

Mittal's bid for Arcelor creates heat in Europe

Arcelor accuses Mittal of poor corporate governance

Guy Dolle, Chief Executive of European steel group, Arcelor, has attacked Lakshmi Mittal, saying the Indian billionaire has behaved improperly in initiating a £12.7 bn take over bid and that he presided over a company with poor standards of corporate governance. Arcelor board has treated the Mittal bid as "150%" hostile.

Sources say that returning cash to shareholders and buying a rival are two strategies being considered by Arcelor to fend off the hostile bid by Mittal Steel.

The company and its advisers plan to take their time to decide on their defence, the sources said, adding that finding a white knight counter bidder or playing the patriotic card were among other options being mulled.

While Arcelor argues it would have a brighter future as an independent company, CEO Guy Dolle has declined to give specifics about Arcelor's defence strategy, saying only that the two companies don't fit together and the bid undervalues Arcelor. "Arcelor will not share its future with Mittal Steel, because the two companies are diametrically opposed, "he said.

Instead, Dolle, who said he expected a four to six month battle, raised corporate governance issues, saying Mittal concentrated too much power in the hands of the Mittal family.

Despite the rhetoric, Arcelor's defence options are limited, sources close to the matter say. For one thing, the founding Mittal family owns 88% of the company, ruling out any possibility that Arcelor could turn around said bid for Mittal, "They can do a value- release, "such as a share buyback or special dividend, said one banker, "That's the most obvious thing they can do.

A return of cash could be underpinned by asset sales, though Arcelor, which is being advised by BNP Paribas, Deutsche Bank, Merrill Lynch and UBS, has the funding in place to be able to spend money without resorting to sell – offs the sources said.

While the number to steel maker's large size would make it difficult to find a white knight counter bidder, other companies such as South Korea's POSCO and US group Nucor Corp could possibly offer Arcelor more cash than Mittal's mostly share bid, the sources said.

Arcelor could also try to find an acquistion to either make the Mittal bid more problematic for regulatory reasons or at least provide shareholders with growth plans under the company's current management.

"They could do a deal which brings them the growth but under which they remain firmly in control," said another source.

Arcelor was created in 2002 by the merger of France's Usinor, Spain's Acrealia and Lxembourg's Arbed.

French Finance Minister Thietty Breton, Luxembourg's government and Spanish economy minister Pedro Solbes have made public comments about the bid, and its French workforce

of 28,500 makes up 30% of its staff. Breton said he complained to Mittal during an hour-long meeting about the lack of advance warning of the bid, talked of "profound concern" and highlighted Arcelor's French workforce.

Under European law there is not much can do to shield Arcelor, but Breton's statement was a signal of political turbulence awaiting a hostile bidder as the French government pursues an agenda of "economic patriotism". ■

UK business under pressure to cut emissions

Businesses in the UK are under pressure to cut greenhouse gas output under the European Union's emissions trading scheme.

The Department for Environment, Food and Rural Affairs announced tougher limits on emissions than are required under EU-wide plans set out by the European Commission last month.

Businesses in energy-intensive sectors covered by the scheme fear this will put them at a disadvantage compared with competitors in other member states.

By the end of March, the government will publish its draft "national allocation plan" showing how much carbon dioxide businesses will be allowed to emit in the second phase of the emissions trading scheme, from 2008 to 2012.

Businesses argue that the government is creating an unnecessary burden by adopting unilaterally a tougher standard for cutting emissions. Other EU countries will base the calculations for their national allocation plans on their commitments house gases under the Kyoto protocol on climate change. This will mean many member states have to impose much stricter reductions on their industry than they face at present. Cuts of about 6 per cent on average from 2008 will be required, according to the Commission.

However, the UK is on track to meet its Kyoto targets, so British businesses could expect to receive broadly similar emissions limits in the second phase of the trading scheme as in the first, which began on January 1 2005.

However, the government has more stringent targets to reduce carbon dioxide emissions by 20 per cent by 2010. These targets were an election manifesto pledge.

Defra wants to base its calculations for the national allocation plan on that tougher target, meaning that businesses covered by the EU scheme could expect a significant reduction in their allowances to emit greenhouse gases.

Margaret Beckett, environment secretary, said: "Our allocations for phase one [of the trading scheme] should be viewed as the minimal starting point for phase two.

Another minister told the Financial Times he expected emission cuts to be required from business to help to meet government targets, and predicted a "huge row" with business over plans to tighten the screw on industry's emissions.

He said some businesses were co-operating on emissions reduction but others were resisting.

Ian Peters, director of external affairs at the EEF, the engineering employers group, said: "If we were to aim for the [government's own] targets, then clearly that would put UK manufacturing at a severe disadvantage compared with European businesses. Our concern is that British manufacturing is already under enormous pressure."

He called for more of the burden of cutting emissions to fall on consumers, transport and other business sectors outside manufacturing. Plans to bring service businesses and small businesses within the scope of emissions trading are under consideration.

But environmental groups called for further reductions of emissions from businesses. Matthew Davis, climate change campaign director for WWF, said: "If you don't put more pressure on business, how do you meet the 2010 targets? It is a bigger challenge [to persuade consumers to cut their emissions] than to get businesses to accept further cuts."

About half of the UK's total emissions are estimated to be created by consumers.

But a recent Mori poll found that although most people supported action on climate change, only 12 per cent were in favour of regulations or taxes to encourage people to use energy more efficiently. ■

Breton urges calm over Mittal bid

Thierry Breton, French finance minister has urged to calm the polemic around France's opposition to Mittal Steel's hostile •8.6hn ($10.4bn) bid for Arcelor, Europe's largest steel producer.

His efforts came as the Spanish government expressed opposition to the bid to chief executive Lakshmi Mittal.

But there was growing evidence that the perceived tone of some of the objections from France to the deal are having global repercussions when a major Indian industrialist accused the French of "xenophobia".

Speaking on national radio, Mr Breton said he wanted to "bring everyone back to reason". The only country with the right to reject Mittal's bid was Luxembourg as Arcelor's largest shareholder, he said.

APPLICATION FOR MEMBERSHIP

WORLD COUNCIL FOR CORPORATE GOVERNANCE

1 Northumberland Avenue, Trafalgar Square, London WC2N 5BW
Tel: 44 207 724 8001/ 207 872 5784, Fax: 44 207 723 6072,
E-mail: info@wcfcg.net, Website : www.wcfcg.net

INSTITUTIONAL MEMBER

TO BE FILLED IN BLOCK LETTERS

NAME OF COMPANY/ORGANISATIOIN ____________________

ADDRESS ____________________

____________________ POSTCODE ____________________

TELE/MOBILE ____________ FAX ____________ E-MAIL ____________

PAYMENT BY:CHEQUE/DD/CREDIT CARD ____________ ISSUE DATE ____________

ISSUE NO. ____________ CARD NO : ____________ EXPIRY DATE ____________

CARD ISSUING BANK ____________ NAME OF CARD HOLDER ____________

NATURE OF BUSINESS ____________ NAME OF THE CHIEF EXECUTIVE ____________

NAME OF THE DIRECTORS/SENIOR EXECUTIVES NOMINATED TO BE MEMBERS OF WCFCG.

NAME	DESIGNATION
1. ____________	____________
2. ____________	____________
3. ____________	____________
4. ____________	____________

DATE ____________ SIGNATURE OF AUTHORISED SIGNATORY

INDIVIDUAL MEMBER

TO BE FILLED IN BLOCK LETTERS

NAME ____________ DESIGNATION ____________ QUALIFICATION ____________

COMPANY ____________________

ADDRESS ____________________

____________ PIN ____________ EMAIL ____________

RESIDENTIAL ADDRESS ____________ POSTCODE ____________

CATEGORY OF MEMBERSHIP ____________________

TELE/MOBILE ____________ FAX ____________ E-MAIL ____________

PAYMENT BY:CHEQUE/DD/CREDIT CARD ____________ ISSUE DATE ____________

ISSUE NO. ____________ CARD NO : ____________ EXPIRY DATE ____________

CARD ISSUING BANK ____________ NAME OF CARD HOLDER ____________

DATE ____________ SIGNATURE OF AUTHORISED SIGNATORY

MEMBERSHIP SUBSCRIPTION

INSTITUTIONAL		INDIVIDUAL	
CORPORATE MEMBERS	£ 750.00 PER YEAR	ACADEMIC MEMBER	£ 75.00 PER YEAR
ACADEMIC MEMBERS	£ 150.00 PER YEAR	REGULAR MEMBER	£ 100.00PER YEAR
CORPORATE LIFE MEMBERS	£ 7,500.00	INDIVIDUAL LIFE MEMBERS	£ 1,000.00

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MEMBERSHIP NO. ____________ RECEIPT NO. ____________ DATED ____________

However, in an interview with the FT, he defended the French government's right to question Mr Mittal's failure to attempt to negotiate with Arcelor before going hostile last week, despite holding no shares.

"In a modern world the stakeholders have to give an opinion," he said. "And it is that the procedure used in this bid does not give the best chance of success for the company in the end [should Mr Mittal succeed]. France says no more than that," the minister said.

Mr Breton has come under fire for criticising Mr Mittal's decision to go hostile so quickly.

On the radio Mr Breton said it would be shareholders who would decide on Mittal Steel's bid, "not states". But the government as a stakeholder would watch carefully over its interests, for example Arcelor's 23,000 employees in France.

Mr Mittal and his son Aditya have been. reluctant to be drawn into comments on the criticisms leveled at the group by political leaders in France and Luxembourg, opting instead for a conciliatory tone. "I understand this has taken a lot of politicians by surprise," said Mr Mittal. "But we believe that this is an important and right step for the steel industry."

But Adi Godrej, chairman of India's Godrej industrial conglomerate and one of the country's most prominent industrialists, said efforts by the French government to block the Mittal Steel takeover of Arcelor were "xenophobic". "I am dismayed that senior people in the French establishment want to protect a company [with a large presence in France I from a foreign bid," he said. I think I detect an element of racism here, although I would not say it was particularly directed at someone from India. If the CEO of a hostile bidder [for Arcelor I were a WASP [white anglo-saxon protestant] from the US I think the reaction would have been similar." ■

CIA used 'gangster' methods

The head of a high-profile probe of CIA prisons in Europe accused the US administration of "gangster-style methods" yesterday but failed to produce hard evidence that European governments had hosted any such facilities. Dick Marty, the Swiss politician looking into the case for the Council of Europe, the 46-natiott human rights organisation, said in an interim report that US renditions, or extra-legal abductions, had challenged "the very foundation of the law-based state and its democratic foundation".

Individuals have been abducted, deprived of their liberty and all rights, and transported to different destinations in Europe, to be handed over to countries in which they have suffered degrading treatment and torture," he said. "If governments resort to gangster-style methods, I say no," he added. The US maintains rendition is compatible with international law and that it does not transport people to countries where they would be at risk of torture. But Washington uses a more narrow definition of torture than do many European states. Mr Marty said it was "highly unlikely that European governments or at least their intelligence services were unaware" of "hundreds" of CIA flights and more than 100 renditions on European soil or passing through European airspace. "There is a great deal of coherent evidence pointing to the existence of a system of 'relocation' or 'outsourcing' of torture" by the US, said Mr Marty. But he admitted that many of his findings - such as the number of likely renditions - were based on press reports and acknowledged that an in-depth study by a Romanian human rights organisation had not substantiated allegations that Romania had hosted a CIA prison. Nor did he uncover any evidence of such sites in Poland, the other country that has come under most suspicion. He had received satellite pictures and flight records from official European agencies only this week and would now analyse them. "The Marty report has more holes than a Swiss cheese," said Denis Mac-Shane, Britain's former Europe minister, who attended the Council of Europe meeting in Strasbourg. "It is sad that Mr Marty refuses to accept the categorical denials of the Polish and Romanian governments." It is the behaviour of European states - rather than the actions of the US - that comes under the competence of the Council of Europe. Mr Marty criticised European governments for their reluctance to provide information and was backed by a call from the European Commission.

Last week, the European parliament set up a parallel investigation, led by a 46-member committee. In the UK, Mr Marty's report fuelled renewed calls for the British government to broaden its own investigations into allegations that British airports may have been used as part of the "rendition"strategy. The UK civil rights group Liberty is considering taking legal action against ministers on the basis that the Foreign Office's investigations have been inadequate to allay public concern that the UK government might have been complicit in acts of torture. "It is time for our [the UK] government to get its story straight - not about what it did not know, but what it is going to do about such serious alleged violations of human rights and UK sovereignty." ■

Barroso champions the Nordic approach to growth

Europe's leaders have been urged to follow the Nordic route to economic success, as part of the latest plan to revitalise the Continent's sluggish reform drive. Jose Manuel Barroso, European Commission president, has drawn lessons from the stellar economic performances of Denmark, Finland and Sweden in preparing the plan for a EU economic summit in March. He has backed the Nordic approach of increased

spending on research and higher education, including removing all barriers to business investment in universities. Europe spends only 1.28 per cent of its gross domestic product on higher education, compared with 3.25 per cent in the US. Mr Barroso also wants member states to create a framework to bring public and private research spending up from 1.9 per cent of GDP towards 3 per cent. The plan also endorses "flexicurity" policies adopted in Nordic countries, where flexible job markets are underpinned by strong social security systems and policies to help women, young people and the elderly find work. Poul Nyrup Rasmussen, the former Danish prime minister and president of the Party of European Socialists, said: "This sounds like a very social democratic cure. Investment and 'flexicurity' is a remedy adopted with great success in the 1990s by the Nordic social democracies."

Per Nuder, Sweden's finance minister, told how his country had combined "the highest taxes in the world" with a fast-growing and open economy that was flexible and innovative. "The bumblebee is obviously flying," he said.

European Commission officials say they have also drawn inspiration from other EU members - such as the French drive to create technology clusters *• acknowledging that the Nordic model cannot be exported wholesale from small countries with homogeneous populations to the rest of Europe. The Commission has proposed a four-point plan for the Brussels economic summit, designed to focus EU leaders' attention on core priorities: • a new commitment to raise R&D and university spending; • active labour policies to create a flexible market employing 70 per cent of the EU workforce; • new action to help small and medium-sized enterprises, including halving by 2007 the time it takes to start a business; and • the creation of a competitive EU energy market, including measures to improve security of supply.

The Commission will also give its verdict on 25 national reform plans. ■

Triumphant Cavaco Silva to support Socialist PM

The triumph of Anibal Cavaco Silva, the dominant figure of the Portuguese right, in the country's presidential election on Sunday was ostensibly a defeat for the Socialist government. But a shared wish to control a spiralling budget deficit and to revive the flagging economy could mean a fruitful cohabitation between Mr Cavaco Silva and Jose Socrates, the prime minister, in spite of representing opposing political parties. One Lisbon newspaper yesterday described Mr Socrates and Mr Cavaco Silva as "twin spirits" who were counting on each other's support to implement unpopular reforms. Mr Cavaco Silva, who captured 50.7 per cent of the vote, pledged in his victory speech to co-operate with the government to ensure political stability and create the business confidence needed for economic recovery. He is to take office on March 9, succeeding Jorge Sampaio, the Socialist incumbent, as Portugal's first right-of-centre president since the return of democracy in 1974.

Mr Socrates, the first Socialist prime minister to win an absolute majority in parliament, has been politically damaged by the election after controversially giving his party's support to Mario Soares, the veteran Socialist leader. Mr Soares, 81, suffered a crushing defeat with only 14.3 per cent of the vote. He was beaten not just by Mr Cavaco Silva but also by Manuel Alegre, a 70-year-old poet who ran as an independent after being rejected by Mr Socrates as the Socialist party candidate.

In spite of a poorly financed and hastily organised campaign, Mr Alegre emerged as the leading left-of-centre candidate with 20.7 per cent of the vote, only narrowly falling short of forcing a second-round runoff between himself and Mr Cavaco Silva. Support for Mr Alegre reflected disenchantment over tough measures implc mented by Mr Socrates to control the deficit, including an increase in the retirement age and a clampdown on wage increases for state1 employees. Mr Alegre's strong showing is expected to embolden leftwing Socialist party opponents of Mr S6crates, whom they accuse of easing Mr Cavaco Silva's victory by supporting Mr Soares and splitting the left-of-centre vote.

In this weakened position, Mr Socrates can be expected to welcome the backing of Mr Cavaco Silva for tough reforms that are likely to meet increasing opposition rom the left wing of the Socialist party. Mr Cavaco Silva, a former leader of the central-right social Democrats, is keenly aware of the potential for conflict between a president and a prime minister from opposing parties. As prime minister from 1985 to 1995, he often clashed with Mr Soares, who was then president, numbering him among the "obstructive forces" that he accused of undermining government reforms. ■

Livedoor boss Horie arrested in Japan

The Livedoor scandal took a major turn yesterday with the arrest of Takafumi Horie, the Japanese internet group's chief executive, and three other executives. Prosecutors who had questioned Mr Horie during the day moved swiftly to arrest the Livedoor chief together with the group's chief financial officer and the presidents of two subsidiaries. They are being detained at Kosuge Detention Center, which is about an hour outside Tokyo. Livedoor's executives are suspected of violating the securities exchange law by' window-dressing accounts of group companies and providing false information to manipulate the market.

The move follows a week of frenetic activity, which began with the Public Prose cutor Office's raid on Livej door offices last Monday am led to a near collapse of th Tokyo Stock Exchange during the week, as nervous investors rushed to offload Livedoor and other internet stocks. Prosecutors are believed to have moved faster than usual, following the apparent suicide of a key witness who was found dead just two days after the raid.

The arrest of Mr Horie, who on Sunday wrote in his personal blog that he had not been involved in any of the alleged wrongdoing cited in the press, brings the fast-growing internet services group and its once popular founder to a swift and startling denouement. Mr Horie and the internet services group he founded, had become a symbol of a new generation of entrepreneurs, unafraid to challenge the status quo and with the potential to become the Google or Yahoo of Japan. His brash style and unabashed pursuit of wealth had unleashed harsh criticism from more conservative members of the business community who described his use of the tools of market capitalism as "financial alchemy". The arrests are also likely to strengthen calls for greater regulation and stricter disclosure rules.

"Japan needs a greater disclosure enforcement regime," said David Sneider, a partner at Simpson Thacher and Bartlett in Tokyo. "Fraud exists in every market and is committed by all sorts of companies. It's a question of how you try to prevent it. But in Japan there has been a lack of enforcement on the regulator's part and there is no private enforcement because there are no class action lawsuits." Yesterday's arrests also throw the future of Livedoor into question. The Tokyo Stock Exchange, which on Saturday designated the group a company with insufficient disclosure, is likely to de-list Livedoor as well as its subsidiary, Livedoor Marketing, both of which are listed on the Mothers section for startups. The exchange said in a release early today that it had placed the Live-door stock under review for possible de-listing. Last year, the TSE de-listed Seibu Railway and Kanebo, the cosmetics group, for providing false information and for window-dressing respectively. ■

McDonough to join Merrill Lynch

Former New York Federal Reserve Bank president William McDonough is joining Merrill Lynch as vice-chairman and special adviser to chairman Stan O'Neal, the US investment bank said yesterday. Mr McDonough, 71, was the eighth president of the Federal Reserve Bank of New York from 1993 to 2003 before chairing the new established Public Company Accounting Oversight Board, a government-affiliated watchdog for accounting firms. He left the oversight board last November.

Wrongdoing in procurement 'may cost UN upto $298m'

United Nations investigators estimate the world body may have lost as much as $298m through irregularities in peacekeeping procurement, according to an unofficial draft of a report into alleged fraud and mismanagement. The unofficial report, seen by the Financial Times, paints a damning picture of poor or bypassed financial controls, insufficient oversight by senior management, as well as a revolving door of employment between UN procurement staff and the private companies whose services the UN hires. The scale and allegedly systematic nature of wrongdoing has raised fears of a scandal as large as, if not larger than, the Iraqi oil-for-food programme, and one that may hit even closer to UN headquarters.

The $298m figure, almost a third of the $lbn of contracts examined, was removed from a subsequent final document, as were references to named companies and officials. UN member states will be officially sent the final version. Christopher Burnham, the UN's head of management, acknowledged yesterday that the cost of fraud and mismanagement in peacekeeping procurement could go into the "tens of millions of dollars", and the figure was likely to rise.

There are currently 200 separate investigations related to procurement. A new interim head of the procurement service has been appointed, and the UN's internal investigative arm, OIOS, has established a procurement fraud taskforce. Last week, the UN announced it had placed eight staff members on administrative leave, though without any presumption of wrongdoing. "The UN is being proactive," Mr Burn-ham said, citing co-operation with US federal authorities. "We are ferreting out corruption and fraud where it existed and where it exists." Contracts awarded to companies through violations "certainly will be terminated", he added, and the secretariat would seek compensation.

The draft report also raised questions about the UN's Headquarters Committee on Contracts, which reviews contracts above $200,000. It named eight officials who worked both for the UN and its contractors at different times. Also under investigation were the UN's controls over performance bonds, used to guarantee satisfactory completion of a contract. In nine sampled contracts, the bonds received ranged from zero to 7.6 per cent of the contract value, though the minimum suggested was 10 per cent. "OIOS noted the systematic erosion over many years of a fair and competitive source for the UN procurement," the draft report said in its overall assessment. "A lack of enforcement of accountability and a reluctance to investigate mismanagement ... has led to a pattern of corrupt practices." ■

Canada cabs turning green

The typical north American taxi is a clunky Ford or Chevrolet that long ago lost its allure to the family car buyer. Not so in Vancouver and Victoria, British Columbia, where taxi operators have taken the lead from their Japanese counterparts. Since late 2004, dozens of Toyota Prius hybrid petrol-electric cars have been cruising the streets of the two western Canadian cities. Tokyo was the first city to launch an "eco-taxi" fleet. Surinder Rang, operations manager at Empress Taxi in Victoria, estimates that fuel costs for the hybrid vehicles are about one-third those of traditional cabs, such as Ford's Crown Victoria. Priuses make up more than one-third of Empress's 90-car fleet. Citing "way better handling downtown" and lower repair bills, Mr Rang says most Empress drivers plan to replace their cars with a hybrid. Yellow Cab, Vancouver's biggest taxi company, operates 26 Priuses out of a fleet of 208. "The public seems to like them because out here on the west coast everything is environmentally correct," says Bruce Helgason, operations manger. Several other taxi companies in the Vancouver area have added Priuses to their fleets.

According to JD Power & Associates, a market research firm, the overall US hybrid vehicle market has grown from two models and fewer than 10,000 vehicles in 2000 to 11 models and a total of 212,000 vehicles sold in 200r. However, hybrids still make up only about 1.3 per cent of total light vehicle sales. Hybrids are, in some ways, best suited as taxis. The electric battery gets most use in stop-start city driving, maximising fuel savings.

Toyota sold close to 110,000 Priuses in the US and Canada last year, double 2004 sales. A hybrid version of its bigger Camry sedan is due to go on sale this year. Jim Press, president of California-based Toyota Motor Sales, says the company has done no deals with taxi fleets. And with long waiting lists at dealerships, Mr Press expresses surprise that taxi operators were able to lay their hands on sizeable numbers ol Priuses. Still, a widening army of incentives is available? to hybrid owners. Under the energy bill passed by the US Congress last summer, buyers of hybrid vehicles have qualified since January 1 for a tax credit.

Mr Helgason says Yellow Cab has been encouraged by a hybrid rebate on Vancouver airport's taxi licence fee. St Paul Travelers, a big US insurer, announced yesterday that it would offer hybrid vehicle owners a 10 per cent discount on their car insurance premiums. The Prius has some drawbacks as a taxi. It is smaller than most other cabs, and Mr Rang complains of delays of up to three weeks in bringing in spare parts. ■

EU censures Britain to remain within borrowing limit

Brown gets a taste of his own medicine

Britain is on track to break the budget deficit ceiling enshrined in the European Union's stability and growth pact for four years running, according to the latest Commission estimates. Borrowing reached 3.2 per cent of GDP in the financial years to March 2004 and March 2005, and is expected to rise to 3.4 per cent in 2005-2006. The deficit is also expected to remain above 3 per cent in the fiscal year 2006-2007. EU finance ministers are to declare that Britain is running an "excessive deficit". It will also urge member states to tell London to bring borrowing below the 3 per cent threshold by 2006-2007 - one year earlier than forecast. Brussels had previously shied away from such a step, arguing that Britain's deficit was temporary. However, the recent deterioration in the country's public finances means that excuse is no longer acceptable to the Commission, which has the task of upholding the strictures of the stability pact. The UK is bound by the pact's provisions, even though it is not in the 12-member eurozone. However, unlike the governments that have adopted the single currency, Britain cannot be financially penalised. Mr Brown will also be spared the embarrassment of seeing the Commission issue formal recommendations on how to change the country's fiscal policies. But the Commission's move, expected to be confirmed at a meeting in Brussels next Wednesday, is still a blow to the chancellor. Mr Brown has repeatedly chided his European colleagues for their policies, sparking irritation in Brussels and other EU capitals. A Treasury spokesman said yesterday: "As the government set out in the pre-Budget report last month, we continue to meet our fiscal rules over the cycle, with the public finances sustain-able and increases in public investment fully affordable.The government's projections are fully consistent with a prudent interpretation of the stability and growth pact, while the UK continues to have the lowest average debts and deficits of any other major European economy since 1997."

The Commission is expected to argue, however, that the rise in public investment does not fully account for the recent spike in borrowing. Brussels is also concerned that the deficit has mounted in spite of continuing strong economic growth in the UK. In its latest report on the state of Britain's public finances, published in September, the Commission states: "The excess over the 3 per cent cannot be explained by the economic situation as domestic GDP growth was above potential in the last two years." Mr Brown's predicament is less acute than that faced by France and Germany, which have been in breach of the pact since 2002, and Greece and Portugal, which have recorded borrowing far in excess of the 3 per cent of GDP threshold. ■

Coke banned in universities

Could face class action suits for obesity

The world's most valuable brand has been tarnished by accusations over labour abuses and environmental damage

It is 16 years since Avelino Chicanoy was murdered in Pasto, Colombia, the first of eight Coca-Cola bottling plant union leaders killed in the country, allegedly at the hands of right-wing paramilitaries. At the time, the killings attracted little attention, coming as they did amid the daily cycle of political violence in Colombia. But over recent years, the deaths have become an international cause celebre for labour rights groups and student activists, who accuse Coke of turning a blind eye to the murders. Anti-Coke campaigns have spread across more than 100 university campuses throughout the US, Canada and Europe, including the UK, where1 activists are pushing for a nationwide student boycott. This week, the University of Michigan became the 10th US college to ban Coke products from its premises, following similar decisions by New York University and Rutgers University. In addition to alleged labour abuses in Colombia, activists accuse Coke of damaging the environment in India by exploiting and polluting scarce water resources around its bottling plants.

"Coke has become a whipping boy for globalisation, just as Nike and McDonald's have been for years," says Tom Pirko, president of Bev-Mark, a beverage industry consultancy . The company vehemently denies wrongdoing in either Colombia or India and has set up n task force to make its case to student and university leaders, lint the public relations offensive has so far failed to slow the campaign's momentum. Loss of sales from a handful of universities will have little immediate impact on a company with annual revenues of about $22bn. But Coke says it is "very concerned" about the damage to its reputation among young consumers.

The company sought to answer critics last year by recruiting an outside auditor to inspect its operations in Colombia. But activists said the resulting report, which found no evidence of ongoing abuse, larked independence and failed to investigate the eight murders. Coke has resisted an independent investigation arguing it could d prejudice an ongoing lawsuit against its Colombian bottling partner in a Miami court. Mr Pirko says Coke is particularly vulnerable to attack over its ethical standards because its success has been built on positive perceptions surrounding its famous brand.

"One of the things at the heart of the Coke brand is that it embodies goodness, fun and play," he says. "If consumers start to associate the brand with more negative messages, that is a very big problem for Coke. It is impossible to over-estimate the damage caused when brand goes from being seen as something good to something bad." Coke's brand remains the most valuable in the world, ahead of Microsoft, valued at $67.5bn, according to an annual survey by Inter-brand, a brand consultancy. Hut its value has been edging down in recent years, following a series of blows to its reputation. In Europe, the company's image was dented by a contamination scare at a bottling plant in Belgium and the botched UK launch of Dasani bottled water, which was revealed to be recycled tap water containing excessive levels of a dangerous chemical.

But perhaps the biggest threat to Coke's image is growing consumer concern about the role sugary fizzy drinks play in the obesity epidemic sweeping the developed world. US soft drink producers recently agreed to voluntary restrictions on sales in schools in response to mounting pressure on the industry from state governments, parents and health activists. Some analysts say Coke and its rivals could eventually face tobacco-style class action lawsuits fro victims of obesity. Coke hopes that a new global advertising campaign planned for this year - using the slogan "Welcome to the Coke Side of Life" - will help generate more positive feelings towards the brand. ■

Threat to dollar as China diversifies reserves

Move could hit global markets

China is determined to diversify its trillion dollar foreign exchange reserves away from the US dollar and government bonds - a potential shift with significant implications for global markets. Economists estimate that more that 70 per cent of the reserves are invested in US dollar assets, which has helped to sustain the recent large US deficits. If China were to stop acquiring such a large proportion of dollars with its reserves - currently accumulating at about $15bn (£8.5bn) a month - it could put heavy downward pressure on the greenback.

In a brief statement on its web-site, the government's foreign exchange regulator said one of its targets for 2006 was to "improve the operation and management of foreign exchange reserves and to actively explore more effective ways to utilise reserve assets". It went on: "[The objective is] to improve the currency structure and asset structure of our foreign exchange reserves, and to continue to expand the investment area of reserves. "We want to ensure that the use of foreign exchange reserves supports a national strategy, an open economy and the macro-economic adjustment." The announcement came from the State Administration of Foreign Exchange (Safe). It gave no more details about whether this meant a big shift in the investment strategy for Chinese reserves, which according to local press reports reached nearly

$800bn at the end of last year and are expected by economists to hear $1,000bn this year.

The regulator also said it would end quotas on the amount of foreign currency Chinese companies can acquire to invest in overseas assets. The statement comes at a time of growing debate in China on how reserves are invested. Some economists have called on Beijing to use the funds for infrastructure investment or to invest in higher-yielding assets rather than financing US borrowing. However", according to Stephen Green, economist for Standard Chartered in Shanghai, although the language was "vague", yesterday's statement was the first time Safe has publicly indicated a shift away from dollar assets."It is a subtle but clear signal that they are interested in moving away from the US dollar into other currencies, and are interested in setting up some kind of strategic commodity fund, maybe just for oil, but maybe for other commodities," he said. The Group of Seven leading economies has repeatedly called for an adjustment in global trade imbalances, including a rise in the renminbi, and the US has expressed frustration that China has not allowed its currency to rise significantly after last July's 2 per cent revaluation. ■

Culture of Corruption Corrodes America

Money Shapes the Politics

Admission of guilt to conspire, fraud and tax evasion by Jack Abramoff, Washington's supper lobbyist who was called "one of my closest and dearest friends" by Tom DeLay, the Republican Leader in the House of Representatives, could implicate almost a score of Congressmen making US Congress one of the sleaziest in the world. According to Alex Knott of the Centre for Public Integrity in Washington. "If Abramoff discloses all of his quid pro quos, Americans will learn exactly how money has shaped their politics"

In a stinging editorial Financial Times has attacked the culture of corruption represented by the likes of Jack Abramoff. It says, political corruption in America has a face: the face of Jack Abramoff Looking every inch the villain in trenchcoat and fedora, the once mighty Republican lobbyist this week pleaded guilty in an influence-peddling case that exposes a culture of corruption at the heart of Washington. This is for US politics what the collapse of Enron was for US business: a moment when the slow advance of unacceptable practices is laid bare before the public. It demands an equivalent response from Congress and the American people.

If Mr Abramoff - a one-time movie producer - had stayed in Hollywood for his entire life, he could never have scripted a more astonishing tale than the one his confession now presents to the world. Tens of millions of dollars, milked from Indian tribal gambling interests, funnelled to corrupt politicians and recycled via kickbacks to advance favoured interests. What is especially striking is the brazen manner in which his activities were carried out: golf trips to St Andrews in Scotland, boxes at premier sporting events. This is a man who did not just buy lunch: he bought the restaurant.

The justice department must now pursue those lawmakers, aides and officials who participated in Mr Abramoffs corrupt activities with utmost vigour, as it promises to do. This will become awkward if the investigation moves up the political food-chain. Alberto Gonzales, the attorney-general, must resist the pressure to shield his party from embarrassment.

Yet it would be a grave mistake to see this as a problem of a single corrupt lobbyist and his web of venal contacts. The Abramoff case is about a system of corruption. Nowhere else in the civilised world is it so widely accepted that money buys access and influence over policy and that interest groups must "pay to play". The problem is less the crimes that Mr Abramoff committed than the corrupting practices he employed that were not obviously illegal.

Few Democrats are in a position to preach about political ethics. Congress as a whole is guilty of what Newt Ging-rich, former speaker of the House, calls an "incumbency protection" racket. Incumbents seek funds for war-chests to deter potential challengers. Yet corruption in Washington today is flavoured by Republican politics. Since winning the majority in Congress in 1994, the Republican leadership has attempted a reverse takeover of the lobbying industry: the so-called K Street project, designed to fuse corporate and Republican interests. It has partly succeeded.

Congress must now clean house, and Republicans would be wise to take the lead lest they suffer a backlash from voters in the November mid-term elections. Sensible steps can be taken to improve transparency, toughen rules and tighten oversight. But past campaign finance legislation has had only limited success. What is needed is a change in political culture and ethics, demanded by the electorate. Just as Congress helped business clean up its act after Enron, business can help Congress clean up today. Funnelling money to Washington creates a system in which businesses seek not to get government off their backs, but to gain special favours.

It sustains big government. These conditions are hostile not only to the health of American democracy but to the future of American enterprise as well. Corporate America helped to create this monster. A more disciplined approach to campaign finance could help start to tame it. ■

Diversity in Director Recruitment Makes Boards Work Better

There is a shocking lack of diversity in the British boardroom. Research commissioned by the Financial Times recently showed that the typical nonexecutive director is a 58-year-old white male with a background in finance. Boards need a much wider pool of knowledge and experience. Thirty years after the introduction of the Sex Discrimination Act, Britain's record of recruitment of women directors continues to be abysmal.

Among the FTSE 100 companies, just 10.5 per cent of directors - non-executive and executive - are women. This is up from 8.6 per cent two years ago, an annual increase of 1 percentage point. At that pace, it would take 40 years to achieve gender equality on the boards of Britain's largest listed companies.

To shows how much more needs to be done to change attitudes. A lot is required to help staff combine careers and parenting, as many successful businesses have shown. But it would take radical changes in child-rearing practices to put men and women on a completely footing in the jobs market.

The Equal Opportunities Commission wants new laws to close the gender gap. Its annual survey of women in senior management has found the number in top positions is continuing to rise. But the EOC says parity with males will be decades away without further legislation.

This is not just "motherhood and apple pie". As James Surowiecki pointed out in The Wisdom of Crowds, homogeneous groups are great at doing what they do well but become progressively less able to investigate alternatives. Bringing in new blood - even if less experienced - makes the group smarter. A study of large US companies fount boards with women directors were better than all-male boards at influencing management. They are also better recruiting and retaining women employees - a competitive advantage in the war for talent.

Defenders of the status quo rightly say there is a shortage of women with board experience in big companies. And boards overwhelmingly seek specific sector or industry knowledge in recruiting non-executive directors. This is a chicken and egg story. How will women have experience if the male dominated nominations and recruitment committees do not give women a chance.

As Laura Tyson, dean of London Business School, pointed out in a government-sponsored report in 2003, there is a growing number of talented candidates in the "marzipan layer" just below board level, in smaller companies and in business services firms. Companies that tap into this wider gene pool are likely to be rewarded with superior performance. ■

Warning on threat to quality of auditing

Watchdog's report criticises conflicts of interest commercial conflicts of interest and poor legal compliance are putting the quality of company audits at risk, the UK accountancy regulator has warned.

The Financial Reporting Council's warning followed its first independent assessment of the industry that included an inspection of 27 audits of leading UK companies.

The FRC assumed new powers last year to boost investor confidence in corporate reporting following scandals such as Enron and Parmalat.

The FRC yesterday referred two FTSE 350 audits to its review panel – the arm that examined MG Rover's accounts – because it was concerned that accounting rules had not been applied correctly and relevant information had not been disclosed. But it said that reported profits were not at issue in either case.

Sir John Bourn, chairman of the FRC's Professional Oversight Board for Accountancy, said: "The quality of audits is under threat from a number of risk not being addressed by all [accountancy] firms in all audits".

The regulator has assumed many of the accountancy profession's previous self-regulatory powers and focused much of its attention on audits, which safeguard against financial fraud and reporting misdemeanours. Sir John unveiled a list of 21 areas where the Big Four accounting firms – PwC, Deloitte, KPMG and Ernst & Young – needed to improve.

But he emphasised that the FRC had not uncovered systemic weaknesses in audit policies, procedures or systems.

He said: "Global capitalism is not going to fail because auditors are not effective, but auditors could do better."

The FRC emphasised that the country's audit framework was appropriate and that the "great majority" of audit judgement were sound.

But Sir John highlighted the fact that accountants' commercial priorities sometimes appeared to take precedence over audit quality. "The documented goals and objectives established for partners …..focused mainly on commercial considerations, such as revenue growth and profitability," the report says.

The regulator also expressed concern over independence of some senior auditors. Accountancy firms must rotate lead audit partners every five years, but the FRC noted that many outgoing partners maintained relationships with clients. Sir John said: "There may be cases in which they don't know they're unduly influenced.

"The finance director says: "The new audit partner doesn't quite understand what we're all about. Would you have a word with him?' This is the kind of thing that diminishes independence." The Institute of Chartered Accountants in England & Wales said: "Standards of UK audit are among the best in the world and the profession is always willing to examine ways in which current approaches can be improved." ■

Boeing outsells Airbus

Boeing, the world's biggest aerospace and defence group, has announced record commercial aircraft orders for 2005. The US group is expected to have outsold Airbus for the first time since 2000. Its European rival will disclose its full-year orders later this month. But Boeing is fighting back after taking a severe beating in the commercial aircraft market in recent years. In five of the six years from 1999 to 2004 it was outsold by Airbus measured by gross new orders, and for the three years between 2003 and 2005 Airbus has delivered more commercial aircraft than Boeing.

The US group said yesterday it had taken 1,029 gross orders in 2005, nearly four times the 277 in 2004. The strong sales performances by both aircraft manufacturers have powered the civil aerospace industry to a record year in 2005. Airbus said yesterday that the previous record' year for sales of commercial aircraft (of 100 seats and above) was 1989, when gross sales totalled 1,528. This comprised 879 by Boeing, 228 by Douglas (McDonnell Douglas was taken over by Boeing in 1997) and 421 by Airbus.

The high level of demand last year, which could represent the peak of the present cycle, has been fuelled by the launch of new aircraft strong demand from low-cos carriers, the rapid growth aviation in Asia - particu1-larly China and India - a the high oil price placing la premium on the fuel efficiency of new aircraft. The last cycle peaked |in 2000 with 1,131 orders fell to only 524 in 2003. Boeing said net orders, including con sions and cancellati jumped to 1,002 last from 272 in 2004, surpas; its previous record of 877 orders set in 1988. Airb has disclosed 687 gross ne orders in the 11 months to the end of November. Alan Mulally, chief executive of the Boeing Commercial Airplanes division, said 2005 had been "an incredible year". Boeing shares, which reached an all-time high of $71.49 immediately before Christmas, closed at $70.33 on Wall Street yesterday. ■

Nikko Citigroup admits Y1bn error

Nikko Citigroup yesterday admitted that an employee had mistakenly placed a Ylbn ($8.6m) share order, due to insufficient checks at its compliance control centre. The trade, in which an individual mistakenly bought 2,000 Nippon Paper shares instead of two, comes on the heels on the J-Com trading fiasco, which cost Mizuho Securities Y40.5bn and caused the head of the Tokyo Stock Exchange to resign. Nikko Citigroup, a joint venture between Nikko Cordial and Citigroup of the US, said an employee placed the mistaken order with the company's stock trading section for his personal account. A trader then executed the order as received. "This occurred due to weakness in our compliance control," Nikko said. "Compliance did not double-check the individual's balance account. We are now working closely with the Financial Services Agency." Nikko Citigroup did not attempt to cancel the transaction with the TSE. The investment bank is considering selling the shares in the near future. The purchase sent shares of Nippon Paper up to the daily price limit on Wednesday, their highest closing level since March 2005. After Nikko Citigroup announced the trading error yesterday, Nippon Paper's shares closed down 1 per cent to ¥505,000. The TSE said it was not mandatory for brokerages to announce botched trades, though it is considering revising its policy following the J-Com trade.

The exchange said without mandatory disclosure, it was difficult to gauge how frequently such mistakes occurred. Small erroneous transactions could easily blend into the general trading. Nikko Citigroup said it decided to make the botched trade public following consultations with the TSE, because the trade caused Nippon Paper shares to fluctuate. Last month, Mizuho Securities mistakenly placed a sell order for 610,000 shares in recruitment company J-Com for Yl each, rather than for a single share for Y610,000. The Japanese exchange's failure to cancel the trade highlighted serious problems with its year-old trading system, which it is considering replacing. The exchange was last month issued with a business improvement order by the Japanese regulator. Last month, Taizo Nishimuro took over as TSE president after his predecessor, Takuo Tsurushima, and two other executives, stepped down to take responsibility for repeated problems with the computer trading system at the TSE, the world's second-largest bourse. ■

Starbucks wins China ruling

A Shanghai court has ruled that a Chinese coffee company infringed the copyright of coffee chain Starbucks Corp., state media said on Monday, as the country's battles to rein in intellectual property theft. The court ordered Shanghai Xingbake, the China Daily reported.

Beijing has pledged to protect intellectual property rights, but with piracy of everything from handbags to software rampant, the issue has become a thorn in relations with the United States and other countries that accuse Chinese firms of copying Western products.

The court ruled that Shanghai Xingbake Coffee Co Ltd constituted illegitimate competition by using the Chinese translation of Starbucks in its company name and…a similar design motif for its coffee houses, “the report said.

Shanghai Xingbake registered in 1999, after Starbucks registered in 1999, after Starbucks had registered its trademark in China, but before it registered as a joint venture in Shanghai in 2000, the newspaper said. Starbucks brought the case in 20003 claiming copyright infringement against the Shanghai company, whose logo shares the same white and greee design as that of the Seattle-based chain. Since entering China in 1998, Starbucks has opened some 140 stores with three local partners. More erectly it has started opening outlets directly as the government loosens regulations on foreign ownership in the sector. ■

BankAM buys MBNA for $34 billion

Bank of America Corp on Sunday said it has completed its purchase of MBNA Corp, the largest independent US credit-card issuer, in a transaction valued at about $34.2 billion. The purchase more than doubles the size of the No.2 US banks card business. Charlotte, North Carolina-based Bank of America has said it will become the largest US credit-card issuer as measured by balances, with more than 40 million active accounts and about $140 billion of balances.

Bank of America said the transaction will be accretive in 2007. it said it expects after-tax cost savings of $850 million by the end of 2007, and anticipates an after-tax restructuring charge of $1.3 billion. The company expects to realies cost savings by eliminating overlapping technology, reducing marketing expenses and staff, and through greater leverage with vendors.

MBNA shareholders will receive 0.5009 of a Bank of America share plus $4.125 in cash for each of their shares. The terms value MBNA at $27.24 per share based on Friday closing prices. ■

Citigroup named top underwriter

CITIGROUP Inc was Wall Street’s busiest stock for the sixth straight year in 2005 as a healthy economy, low interest rates and investor demand drove securities issuance to a record.

Amid strong demand for fixed-income securities, worldwide stock and bond underwriting totaled $6.51 trillion, 13 percent higher than a year earlier, Thomson Financial data released on Friday showed.

With apologies to Frank Capra, it was a wonderful year for underwriting,” said Richard Petershon, senior researcher at Thomson. There’s no shortage of demand for money. Reported fees, meanwhile, fell 14 percent to $13.1 billion, because of increased competion and because banks do not disclose all fees, among other reasons.

In the fourth quarter, underwriting volume totaled $1.6 trillion, and fees totaled $3.59 billion.

Wall street benefited from investor resilience in the face of hurricanes, soaring oil prices and 13-interest rate hikes.

Retail and institutional investors as well hedge funds favored higher-yielding and later higher-growth investments. Record investing from private equity firms boosted mergers and acquisitions and the need to finance them.

“Many companies have locked in attractive financing in the last few years,” said Craig Farr, Citigroup’s co-head of US equity capital markets.

“A lot of new financing will be driven by M & A and other growth activities. We’re expecting a stable to upward trending environment in 2006.

Citigroup handled $564.7 billion of transaction during the year, for an 8.7 percent market share. Lehman Brothers Holdings Inc ranked second, up from fifth a year earlier, with $420.8 billion of transactions, while Deutche Bank AG rose to third from seventh, with $418.1 billion. ■

Googles faces $5-b lawsuit

New York: a small New York technology firm said it was suing search titan Google for up to $5 billion for patent violation in the Internet telephone software used in Google Talk.

Jerry Weinberger, chief executive of Rates Technology Inc, said he was the inventor of software programming that allows telephone calls to be placed over the Internet.

He said 120 companies, including Lucent, Cisco, IBM, Yahoo and Microsoft, have paid RTI to use the technology for “Voice over Internet Protocol” (VoIP) calls.

RTI filed suit in Long Island federal court against Google two months ago because the search engirn was using the technology without authorization, Weiinberger said. “They told us to go to hell,” the RTI boss said.

Weinberger alleged that Google has abused two patented RTI software programmes in Goolge Talk, which enables users to talk through a computer headset or to instant message each other for free.

From Green to evergreen revolution

Even as India's policy pundits set their sights on achieving 8% GDP growth, here's a reality check. While the last decade has been boom time for several sectors of the economy, agricultural growth has remained stagnant at 2%. Rural indebtedness is up by 4% - from 23% in 1991 to 27% in 2003, according to a survey by the National Sample Survey Organisation. Average indebtedness is as high as 30% in rural Andhra Pradesh, Karnataka, Kerala and Rajasthan.

Could 2006 be the turn around year for rural India? Experts say the key leis in tackling basic infrastructure problems. As MS Swaminathan, chairman, National Commission on Farmers and father of the Green Revolution, points out: "The problems have to be tackled sincerely and require serious follow-up action. Only then can you think of converting the Green Revolution into an evergreen revolution." ■

Call to Make Credit Easy for Indian Farmer

Over 400 farmers in the Indian state of Madhya Pradesh are said to have committed suicide because of their inability to pay debt. "The Indian farmer pays as much as 12-14% interest on credit, his Chinese counterpart pays nothing. It's ridiculous, considering that for buying a house or a car, you have to pay na interest rate of only 7-8%," says Swaminathan. He suggested that the government should bring down the rate to 6% and, more importantly, ensure that it is available to farmers a the right time.What is the point if they don't get it when they really need it?.

Lack of information is seen as one of the major roadblock to progress and the best solution to this is internet. Apart from government initiatives, some private players too have been involved with e-linking villages in the last couple of years. And the trend is bound to catch on, says experts. HLL's I-Shakti and ITC's e-Choupal ae two prominent examples.

"Our e-choupal creatively leverages the power of IT to bring expert knowledge to the smallest individual farmer, to web-link them to world markets, and thereby help enhance their product quality, productivity and competitiveness," says S Sivakumar, chief executive, agric business, ITC.

IIT-M professor Ashok Jhunjhunwala, whose n-Logue initiative has reached out to 2500 vilages since its launch in 2000, says connectivity is a means for empowering the villages. "The key is to use it for education, health and livelihoods."

As more and more the rural unemployed head for the cities in seach of a livelihood, Verghese kurien suggests the Amul example to reverse the trend. "We must ensure a legitimate share for the farmer in the scheme of things," says the father of the White Revolution. "the merit of the cooperative ideology lies in the way it brings equality, democratic control and equity to institutions, and seeks to maximize social welfare. The experience at Amul has established that agricultural development is not a matter of technology. It is a matter of building institutions.

Agricultural markets are a mess, thanks to middlemen, improper weighing, grading and packaging facilities, and poor transportations arrangements. Swaminathan says some intermediaries can be removed if farmers from cooperatives. In fact, a few states are already experimenting with farmers' markets and Apni Mandis.

Kurien points out hat empowering farmers is the best way to regulate markets. "Value addition of farm production should be encouraged through small farmers agri business cooperatives so that they get to reap the wealth generated through marketing. Rural productivity can improve rapidly if the institutions controlling procurement, processing and marketing are given in the hands of farmers.

Says Kurien: It is only when our farmers have control that such institutions will be sensitive to their needs and remain responsive to their demands. ■

SEC to move on executive pay

Christopher Cox, chairman of the Securities and Exchange Commission, last night signalled the chief US financial regulator would propose rules to ensure investors get better information about executive pay.

Speaking to the Economic Club in New York, Mr Cox said: "What we will propose is disclosure that permits a complete and accurate understanding of the compensation package."

The five SEC commissioners are expected to vote next month on the rules, which would not involve setting caps on executive pay.

The SEC is concerned that a company's proxy statement, which contains details of executive compensation, does not add up all the components of a director's pay package.

Mr Cox who noted it was 13 years since the SEC revised its rules on executive compensation, said: "It is absurd to think that the owners of an enterprise should be denied full knowledge of how much they are paying their employees."

He said the SEC rules had not kept pace with changes in executive pay, with the result that technical compliance with disclosure rules did not "adequately capture the details of the latest compensation packages."

William Donaldson, Mr Cox's predecessor, had commissioned work at the SEC on improved disclosures about

executive pay. He expressed the hope that better information for investors would help end the spectacle of high pay for directors at poorly performing companies.

Mr Cox has pledged to make better disclosure to investors a theme of his time at the SEC. He said nothing was "more complicated than the description of executive compensation."

He stressed that the SEC did not plan to place caps on salaries. "This is not about wage controls," he said. "This is about wage clarity."

Mr Cox also pledged that the SEC and the Financial Accounting Standards Board, which writes accounting standards, would work to reduce complexity in financial reporting rules. ■

GM subpoenaed in US SEC accounting probe

General Motors has said it had been subpoenaed by the US Securities and Exchange Commission as part of a probe into its accounting practices and other matters.

It was the latest blow to the world's largest automakers, which is bleeding money from its core North American automotive operations and confronting its biggest financial crises since a narrow brush with bankruptcy 13 years ago.

GM said the subpoenas related to its financial reporting for pension and other post employment benefits, and to transactions between the company and auto parts supplier Delphi.

They also relate to the SEC's interest in GM's recovery of various costs from suppliers and supplier price credits, and any obligations to fund pension and post-employment benefits cost related to cost related to Delphi's chapter 11 bankruptcy proceedings, the company said in a statement.

GM, Delphi's former parent, said it could be on the hook for upto $12 billion in benefits at Delphi because of guarantees it offered when it spun its former parts arm off in 1999. Delphi filed the largest bankruptcy in US automotive history earlier this month.

GM said SEC and federal grand jury subpoenas had also been served on entities linked to its finance arm, General Motors Acceptance Corp, in connection with insurance industry probes into products that may help companies smooth earning.

GM, Which has lost about $3.8 billion through the first nine months of 2005, said last week that it was exploring the possible sale of a majority stake in GMAC.

Such a sale, which could now potentially be delayed by ongoing investigations and legal wrangling, is aimed at shoring up the credit rating of GMAC which was cut along with that of its parent company to high yield or junk status earlier this year.

The rating cut has ratcheted up GMAC's massive borrowing costs, threatening its ability to continue supporting GM's automotive lending and finance operations. In its statement, GM said both the automaker and its subsidiaries were cooperating with all the ongoing investigations. It added that the company had no further comment at this time.

GM's statement, came a day after DaimlerChrysler said it had received an SEC subpoena for information as part of the Washington agency's investigation into pension accounting practices at GM.

The German automaker said in a regulatory filing that it received the subpoena in September relating to the discount rate and discount rate methodology used for accounting for pension benefits.

The issuance of a subpoena indicated that the SEC had upgraded its investigation into GM's pension accounting practices to formal status from what had previously been described as an informal probe.

Under such formal status, which must be first approved by the Sec commissioners, staff investigators are provided with powers to subpoena a company for documents and subpoena officials to provide testimony.

SEC spokesman John Nester declined to comment on the agency's investigation into GM before the automaker issued its statement. ■

French riots reveal identity crisis: Chirac Vows To Fight Society's Poison

In his first address to the nation since the troubles began on October 27, Chirac vowed to fight the "poison" of discrimination faced by France's immigrant community and described the unrest as "a crisis of meaning , a crisis of identity."

It was the sign of a "deep malaise" in French society, he added in his televised address. Chirac vowed to uphold law and order, but also to tackle the underlying causes of the riots.

The President, who had been accused of taking a back seat in the crisis, appealed directly to youths from the poor, high-immigration suburbs where the unrest has been concentrated, assuring them they had a full place in French society. "I wish to tell the children from these difficult neighbourhoods, whatever their origins, that they are all sons and daughters of the rupublic," he said.

Chirac announced the creation of a paid training and employment scheme for 50,000 youths from such areas and a series of measures to improve access to the workplace and to combat discrimination.

"We will build nothing lasting without fighting discriminations that are a poison for society," he said. "We will build nothing durable unless we recognise and take on board the diversity of French society."

Chirac also warned there would be no impunity for those who took part in the violence, the worst rioting to hit France since the student uprising of May 1968.

He sent out a tough message to the parents of youths who joined the violence, saying that those who failed to assume their responsibilties "should be punished, according to the law." He also vowed to crack down on illegal immigration and trafficking, and called for the rules on family reunification to be strictly upheld. ■

Merck's victory opens doors for Vioxx comeback

In a major victory for Merck & Co, a jury on Friday decided the drugmaker provided adequate warning to doctors about health risks associated with its withdrawn painkiller Vioxx and did not commit consumer fraud in marketing the drug.

The nine-member jury in state court also found that Merck did not misrepresent, suppress or conceal information about increased risks of heart attack and stroke from the pain and arthritis medicine. Merck shares rose on the decision.

"It's a terrific victory for Merck," said Ned Riley, chief executive of Riley Asset Management. "It might open the door for Vioxx to come back on the market with some labeling (changes). It may not be the lost drug everyone anticipated."

The case brought by 60 year-old postal worker Frederick Humeston, who claimed Vioxx caused his heart attack, was being closely watched as a potential indicator of future Vioxx litigation as Merck is facing more that 6500 lawsuits from former Vioxx users who claim to have been harmed by the drug.

"Merck would have been in a desperate situation if it had not won this case because a negative verdict would have encouraged waves of other plaintiffs to come forward," said Steve Brozak, an analyst with WBB Securities.

Last August, in the first Vioxx case to go to trial, a Texas jury found Merck liable for the death of a 59 year old Vioxx user and awarded his widow $253 million in damages. Merck is appealing that decision. More than 2,700 of the cases already brought against Merck were filed in New Jersey and Judge Carol Higbee, who presided over the case just decided, is expected to oversee the bulk of them. The jury in New Jersey reached its decision after only about eight hours deliberation, following a seven-week trial in which lawyers for Humeston argued that Vioxx caused his 2001 heart attack and that Merck had hidden the drug's risks.

Vickie Heintz, a 40 year old juror from Mays Landing, New Jersey, said Humeston had "way too many health issues," to win his case." If you looked at his medical records over the past 20 years it was riddled with a history of medications and health problems. Stress absolutely played a role," Heintz said. Merck's lawyers had argued that the postal worker was under tremendous job-related stress at the time of his heart attack.

"Frederick Humeston would have suffered a heart attack when he did, whether he was taking Vioxx or not," said Jim Fitzpatrick, one of Merck's attorneys.

Increased Risk: The plaintiff's side had accused Merck of hiding evidence for years that Vioxx caused increased heart risks in order to protect huge profits. The drug maker said it pulled the $2.5 billion-a-year drug from the market in September 2004 as soon as it had clear data showing that long-term Vioxx use doubled the risk of heart attacks and strokes. ■

China to name and shame bribe –givers

Bribe-givers in China will be named in a public blacklist from next year, a move experts say will strengthen the fight against corruption.

Provincial level procuratorates will make bribery files available for public access by the end of the year and the system will be linked nationwide at the beginning of next year.

On the blacklist will be individual and units who have offered bribes from 1997 in such sectors as construction, finance, education, medical and government procurement.

Wang Zhenchuan, vice procurator-general of the supreme people's procuratorate, said that the measure is important for 'bringing all social forces into full play' to prevent corruption.

It will also have a positive impact on healthy economic and social development, and strengthen legal supervision, according to wang.

The supreme People's procuratorates introduced a pilot project in some provinces last year and the results are encouraging. For example, in Sichuan, Jiangsu and Zhejiang, construction contractors who were put on the blacklist were barred from bidding for new projects.

Photogate: Bush caught in a spot

At least five photos show US president George W Bush with the scam-tainted lobbyist Abramoff at the center of a corruption scandal, Time repeated.

The White House has tried to play down any contact with Jack Abramoff, who pleaded guilty to fraud charges this month and agreed to help prosecutors in a congressional corruption investigation.

TIME did not publish the photographs, saying its source refused to provide them for publication. Most look like those taken at presidential receptions, it said. Mr. Abramoff admitted being involved in outrageous wrongdoing," White House spokeswoman Dana Perino said on Sunday.

"The President does not recall meeting him. We have previously indicated, however, it would not be surprising if the President met him at some of the widely attended events we know they both attended," she said. "The President has taken tens upon thousands of pictures at such events."

TIME said in one photograph Bush appears with Abramoff and Raul Garza, then chairman of the Kickapoo Indians, which owned a casino in Texas and were represented by the lobbyist. It also included several other unidentified people.

TIME quotes White House spokeswoman Erin Healy as saying that available records show Abramoff was not at the event attended by Garza.

Another photo shows Bush shaking hands with Abramoff in front of a window and a blue drape, the magazine said. The photo carries Bush's signature, which may have been machine-made, it said. ■

China shuts 14 risky securities firms

Chinese regulators have closed 14 brokerages for irregular business practices as part of an ongoing probe to clean up an industry rife with corruption and mismanagement, state press reported.

The china securities Regulatory Commission (CSRC) has investigated cases of irregularities since August last year, Xinhua news agency quoted CSRC vice-chairman Zhuang Xinyi as saying.

Many brokerages were found deep in the red due to poor management, with heavy losses on the books following investment in China's struggling stock markets, Zhunag said at a financial forum. Regulators have cracked down hard on an industry that since its inception 16 years ago has been characterized by freewheeling speculation and capital markets that have never functioned like their Western counterparts.

The CBRC said it was aiming to ensure the timely information disclosure, risk control systems to protect client assets and improved internal controls and risk management.

Rampant falsification of financial statements, manipulation of share prices and insider trading have conspired to keep the markets opaque, sparking Beijing's campaign to overhaul the industry.

At the same time tumbling share prices in the face of reforms that began more than two years has made profits in the industry much harder to come by.

The watchdog has demanded that half of the country's securities houses must be able to present accurate financial information by 2007.

Industry analysts expect only half of the country's more than 130 securities firms will survive the campaign. ■

Yamaha raided over exports to China

Japanese police raided the offices of Yamaha Motor Co. (7272.T) after the government filed a criminal complaint against the company over its sale to China of small helicopters that officials said could have military uses.

Japan has repeatedly expressed concern about China's military buildup and urged Beijing to be more transparent about its motives. Foreign Minister Taro Aso drew an angry retort from Beijing last month when he described China as "a threat."

The Ministry of Economy, Trade and Industry (METI) said it has been investigating Yamaha Motor on suspicion that it had exported small, unmanned crop-spraying machines without the required government permission.

A Yamaha Motor spokesman, confirming that police and customs officials raided the company said ministry officials had searched its headquarters last December.

The company denied any wrongdoing.

"We have carried out the proper procedures for exports and have not violated the law," the spokesman said. ■

Blair's terror bill defeated

Prime minister Tony Blair lost a crucial parliamentary vote on sweeping new legislation allowing police to detain terrorism suspects for 90 days without charge – the first major defeat of his premiership and a serious blow to his authority. Lawmakers blocked Blair's proposal by a 322-291 vote.

The prime minister had refused to compromise over his plan. Knowing the vote could be tightest of his eight years in office, Blair recalled two Cabinet ministers from overseas trips to shore up support.

Blair had recalled his two top ministers from abroad for a knife-edge vote on laws allowing police to hold terrorism suspects for three months without trial, seen as a test of his authority.

Defeat on the proposals is the first major parliamentary loss for the once untouchable Labour leader, who has seen his dominance decline since the invasion of Iraq in 2003. British law allowed suspects to be detained for 14 days before being charged or released.

In an indication of how close the result was likely to be, Chancellor of the Exchequer Gordon Brown had barely touched down at the start of a visit to Israel and the Palestinian Territories when he turned round and flew straight back.

"It is important that the government has all its votes at its disposal this afternoon," he said." The security of the nation comes first. No government can afford to take risks with the security of the country."

Foreign secretary Jack Straw was also recalled from a visit to Moscow for the crunch vote.

Ministers were forced last week to shelve the same plan when it became clear rebels in Blair's Labour Party were poised to join opposition parties to vote against it in the elected lower chamber, the House of Commons. As national elections in May slashed Blair's parliamentary majority to 66-meaning fewer than 40 Labour members can defeat him by voting with the opposition – the vote will be tight. His opponents are standing firm.

"We have consistently said that a 28-day period of detention is the maximum period that we would support," said Michael Howard, leader of the main opposition Conservative Party. Blair has tied his authority to the anti-terrorism measures, saying the extensions will help police tackle a new threat laid bare by Islamist suicide bombing in July. ■

Boeing to pay $72.5m for sex suit

Boeing has agreed to pay $72.5 million to thousands of women to settle a class-action sex-discrimination lawsuit, according to a local media report. The payout, revealed in documents filed in US District Court in Seattle, was reported by The Seattle Times. As part of the deal, Boeing admitted no wrongdoing but agreed to change its hiring , pay, promotion practices and how it investigates employee complaints. More than 20,000 current and former female employees said Boeing discriminated against them at Seattle area plants between 1997 and 2000.

Increased energy efficiency key to sustainable development: Prahalad

Management guru CK Prahalad, hailed last week by Business Week as Business Prophet, is turning to sustainable development. Unlike much of the green brigade, Prof Prahalad sees not conflict but a highly productive marriage between the market and the environment.

Increased energy efficiency through innovation is the key to sustainable development, according to Prof Prahalad. And, this is a message for the new oil Minister of India which means putting an end to the present perverse incentive in the form of artificially low fuel prices.

In Delhi for the Sustainable Development Summit organized by Teri, where he will address a clutch of high-profile CEO's, Prof Prahalad is impatient with notions that suggest a trade-off between growth and being environment-friendly.

"India is a developing country that imports 70% of its energy. Energy security is primarily about achieving energy efficiency and only then about securing abroad. How can it be bad for growth and productivity for economic agents to reduce their energy consumptions and reduce costs?"

Just step back a bit, he says, and look at quality or customization. These used to be considered costly goals not so long ago. It only takes one player to break free from "the dominant logic" and use quality and customisation as means to both acquire customers and reduce costs, and the rest follow. Prof Prahalad is confident that the same thing would happen with energy efficiency also. But it is important to move perverse incentives that encourage excess. Subsidising energy prices, not energy efficiency, is against both growth and sustainability. He identifies four priorities. One is improving transport. This encompasses a range of change, from ending octroi and entry tax collections that entail vehicles idling at check posts for hours on end, to lane discipline and faster turnaround in ports. Number two is home energy use: cooking, heating, and lighting being made more energy efficient. Number three is lowering the energy input in materials. And the fourth priority is making the eco-system more efficient. ■

Morgan pays ex-executives $34 million

Morgon Stanley announced it had reached release agreements totalling $34.3 million with three former executives who departed the investment bank earlier this year amid a management shake-up. In a regulatory filing, Morgon Stanley

disclosed it agreed to pay former president Stephan New-house $17.4 million, plus current and retiree medical benefit, reimbursement for legal expenses and up to $100,000 for office expenses. New-house was terminated on April 1.

The firm also will pay Vikram Pandit, the former head of Morgon Stanley's institutional secutities division, $9.04 million.The pact also calls for payment of other medical and retirement benefits and reimbursement of legal expenses and office and administrative costs up to $75,000. Pandit was terminated March 29.

Meanwhile, John Havens, the firm's former head of institutional equities, who was terminated March 29, will receive $7.9 million. Havens also will receive retirement and medical expenses and reimbursement of legal plus up to $75,000 of office expenses.

In exchange for these payments, all three executives have agreed not to compete with or disparage Morgan Stanley, nor can they solicit employees of the firm or disclose confidential information. ■

Credit Suisse receives subpoenas over Refco

Credit Suisse Group Inc, one of three underwriters for Refco Inc's initial public offering (IPO), said it received regulatory subpoenas regarding the commodities and futures broker, which sought bankruptcy protections in October.

Switzerland's second largest bank said its Credit Suisse First Boston LLC unit and affiliates received subpoenas and information requests from various requlators, including the US Securities and Exchange Commission (SEC), regarding Refco. The company said it was co-operating.

Credit Suisse disclosed the subpoenas in a quarterly report filed with SEC, It did not immediately return calls seeking further comments. The subpoenas show that investigations concerning Refco's collapse are expanding. Credit Suisse underwrote Refco's $583 million IPO in August with the US investment banking units of Bank of America Corp. and Goldman Sachs Group Inc.

Brad Hintz, a Sanford C Bernstein & Co analyst, last month said Refco's bankers might face up to $188.7 million of costs from their former client's collapse. Refco also sold $600 million of junk bonds, in a sale handled by Bank of America, Credit Suisse and Deutsche Bank AG.

Refco filed for protection from creditors on October 17, a week after ousting Chief Executive Phillip Bennett and accusing him of hiding $430 million of debt. Prosecutors on October 12 charged Bennett with securities fraud. Five groups have submitted offers to buy all or part of Refco. ■

Italy minister threatens to sue Nestle's Brabeck, Baby Food Comments Land CEO In Soup

Italy's health minister said he planned to sue Peter Brabeck, the chief executive of Swiss food group Nestle, over comments Brabeck made regarding a contaminated baby milk scare.

Italian Police said they had confiscated some 30 million litres of Nestle baby milk after discovering it contained traces of ink from their Tetra Pak cartons.

Health Minister Francesco Storace denied comments by Brabeck that Nestle had reached an agreement with the European Union and Italy's health ministry before the incident came to light to let the products expire and to change the production process for the cartons. "Mr Brabeck will be sued for the extremely serious statements he made to Reuters news agency , and the same thing will happen to anyone who continues these ravings which are completely groundless," Storace said. Italy's Agriculture Minister Gianni Alemanno called Nestle's handling of the contaminated baby milk scare "unacceptable" and urged magistrates to investigate it. ■

US seeks to muzzle outspoken climate expert

The top climate scientist at NASA says the Bush administration has tried to stop him from speaking out since he gave a lecture last month calling for prompt reductions in emissions of greenhouse gases linked to global warming.

The scientist, James E. Hansen, longtime director of the agency's Goddard Institute for Space Studies, said in an interview that officials at NASA headquarters had ordered the public affairs staff to review his coming lectures, papers, postings on the Goddard Web site and requests for interviews from journalists. Dr. Hansen said he would ignore the restrictions. "They feel their job is to be the censor of information going out to the public," he said.

Dean Acosta, deputy assistant administrator for public affairs at the space agency, said there was no effort to silence Dr. Hansen. "That's not the way we operate here at NASA," Mr. Acosta said. "We promote openness and we speak with the facts." He said the restrictions on Dr. Hansen applied to all National Aeronautics and Space Administration personnel. He added that government scientists were free to discuss scientific findings, but that policy statements should be left to policy makers and appointed spokesmen.

Mr. Acosta said other reasons for requiring press officers to review interview requests were to have an orderly flow of information out of a sprawling agency and to avoid surprises. "This is not about any individual or any issue like global warming," he said. "It's about coordination."

Dr. Hansen strongly disagreed with this characterization, saying such procedures had already prevented the public from fully grasping recent findings about climate change that point to risks ahead.

"Communicating with the public seems to be essential," he said, "because public concern is probably the only thing capable of overcoming the special interests that have obfuscated the topic." ■

Microsoft hacker gets jail

A federal judge sentenced a convicted hacker known as "ill will" to two years in prison for selling the code, or software blueprint, for Microsoft Corp.'s closely guarded Windows programs.

William Genovese, Jr., 29, pleaded guilty last year to one count of unlawful distribution of trade secrets for putting Microsoft's source code for its Windows NT 4.0 and Windows 2000 programs on his Web site and selling it. The plea agreement called for a sentence ranging from 10 months to 30 months in federal prison. "I screwed up," Genovese said in court. Genovese has 12 prior criminal convictions, including three computer-related crimes and a sexual abuse conviction, a government attorney told the hearing in federal court in Manhattan.

U.S. District Judge William Pauley said Genovese's criminal background was the most disturbing he has encountered during his seven years as a judge. "Mr. Genovese is a predator who has morphed through various phases of criminal activity and in the last few years has descended into the world of the Internet and is well on his way to being a cyber predator," Judge Pauley said. ■

3 Morgan Stanley members to quit

Morgan Stanley said that three directors would step down from its board, continuing a wave of changes that followed john Mack's appointment as chairman and chief executive officer in July. John Madigan, 67, and Miles Marsh, 57, are stepping down from the board at the end of the year. Edward Brennan, 71, will depart on January 16.

After they depart, the investment bank's board will comprise nine directors, including seven outsiders. In a statement, Marsh said following "a successful transition to new management… this is an appropriate time for us to step aside." Following the departure of Madigan, Marsh and Brennan step down, only four directors who preceded Mack's return will remain on the board. ■

SEC's acting chief for audit watchdog

The US Securities and Exchange Commission (SEC) will soon name an acting chairman for the nation's audit industry watchdog after its current head steps down, said SEC Chairman Christopher Cox. "There will be an acting chairman" of the Public Company Accounting Oversight Board (PCAOB), Cox said after an SEC public meeting. Cox said SEC planned to announce its new formal process for selecting PCAOB members. The PCAOB, which answers to the Securities & Exchange Commission, was created under 2002's post Enron, Sarbanes- Oxley accounting reforms. PCAOB Chairman William McDonough announced in September he would resign on November 30 after two years on the job. ■

Sumitomo Mitsui faces probe for unfair tactics for selling financial products

Japanese anti-trust regulators are investigating whether Sumitomo Mitsui Financial Group (SMFG), the country's third-biggest bank, used unfair tactics to sell financial products to borrowers. The watchdog Fair Trade Commission (FTC) said it was examining SMFG's main unit Sumitomo Mitsui Banking Corp, over the sale of financial derivatives known as interest rate swaps, and would likely announce the results probe soon.

According to Japanese newspaper reports, investigators had found that Sumitomo Mitsui forced some small-business clients to buy the swaps as a condition for extending loans, and the FTC was preparing to issue a formal reprimand against the bank. Akinori Yamada, an FTC official, declined to say what prompted the investigation or whether the commission was also probing other banks. Sumitomo Mitsui Banking Corp spokesman Takashi Morita acknowledged that FTC was investigating but declined to comment further.

Sumitomo Mitsui and other Japanese banks, faced with weak demand for mainstay corporate loans, are seeking to increase revenues from fees and commission sto make up for falling interest income. Interest rate swaps protect borrowers against rate increases by allowing them to switch from variable to fixed- rate loans. Borrowers pay a fee for the option, and if interest rates stay flat they end up paying more than they otherwise would have.

The FTC determined that Sumitomo Mitsui's sales tactics violated Japan's antimonopoly law, which forbids lenders from using their leverage over borrowers to sell other products or services, the Nihon Keizai, Yomiuri, Mainichi and Sankei dailies said. Hironari Nozaki, analyst at Nikko Citigroup, said any order from the FTC to curb aggressive sales" would be unlikely to a have a noticeable impact on earning " at SMFG.. The bank already estimates that revenue from derivative sales would shrink by 10 billions yen ($83.57 million) in the financial year to next March, Nozaki said. ■