

# The CERES Principles: A Voluntary Code for Corporate Environmental Responsibility

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I. BACKGROUND	307
II. THE CERES APPROACH	311
A. <i>A Corporate Environmental Ethic</i>	311
B. <i>Consensus Building</i>	312
C. <i>Standardized Environmental Reporting</i>	313
D. <i>Scope</i>	313
III. THE CERES PRINCIPLES	314
IV. CONCLUSION	317

## I. BACKGROUND

On March 24, 1989, the *Exxon Valdez* struck a reef in Alaska's Prince William Sound. Eleven million gallons of oil flowed into waters where salmon thrived and polluted rocky shores where bald eagles fed. The black slime fouled more than one thousand miles of coastline. Over ninety thousand birds, including at least one hundred bald eagles, and between one and twenty thousand sea otters were killed.<sup>1</sup> A year later, losses to other species ranging from whales to deer were still being studied.<sup>2</sup> Exxon's cleanup project suddenly became the mainstay of small fishing villages. The wild paradise of Alaska fell victim to an economy rapaciously consuming petroleum.

*Valdez* joined Bhopal, Chernobyl, Love Canal, and Three Mile Island as paradigmatic events in our technological society, illustrating the death and destruction caused by reckless behavior toward the environment. As 1700 investors crowded Exxon's annual shareholder meeting that spring,<sup>3</sup> the bills for cleanup and lawsuits mounted into hundreds of millions of dollars.<sup>4</sup>

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1. See generally Bill Dietrich, *A Frontier Spoiled*, SEATTLE TIMES, Mar. 18, 1990, at A1; *3-Year Cleanup of Alaska Oil Spill is Ended*, L.A. TIMES, June 13, 1992, at A16.

2. Dietrich, *supra* note 1, at A1.

3. NEWS FOR INVESTORS, June 1989, at 119.

4. Out-of-pocket costs to Exxon were estimated at \$1.25 billion, one-third of which was covered by insurance. *Review of Important Current Developments at the Global Level in the Field of Accounting and Reporting by Transnational Corporations*, U.N. Commission on Transnational Corporations, Programme of Work of the Intergovernmental Working Group of Experts on International Standards of Accounting and Reporting, 8th Sess., Provisional Agenda Item 3(a), at 8, U.N. Doc. E/C.10/AC.3/1990/2 (1990).

Investors confronted not only the irreversible destruction of life-giving ecosystems, but faced direct and significant financial losses stemming from environmental irresponsibility.<sup>5</sup> As the investment community came to recognize corporate environmental responsibility and accountability as an important indication of long-term financial health, environmental issues began to displace disinvestment from South Africa as the dominant social concern among investors.<sup>6</sup>

Shortly after the *Valdez* incident, leading social investors,<sup>7</sup> environmental groups,<sup>8</sup> religious organizations,<sup>9</sup> public pension trustees,<sup>10</sup> and public interest groups<sup>11</sup> across the nation gathered to form the Coalition for Environmentally Responsible Economies (CERES).<sup>12</sup> They recognized that the existing legal regime, with its convoluted system of suits and countersuits, can neither adequately hold corporations publicly accountable for their actions nor respond to environmental disasters with the immediacy necessary to contain such crises. Members of CERES therefore sought to heighten corporate environmental responsibility through selective use of investment capital. They believed that by eliciting public acknowledgments of environmental responsibility from corporations, investors could induce corporations to follow through on their commitments to respond to environmental crises promptly and adequately.

On September 7, 1989, CERES announced a set of ten principles for corporate environmental conduct (the Principles).<sup>13</sup> Corporations were asked

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5. Exxon accountants wrote off \$850 million in clean-up costs. Exxon's first quarter net income totaled \$160 million, palling in comparison to the \$1.2 billion earned the previous year in the same quarter. *Id.*

6. Seventy-five environmental resolutions were proposed by shareholders in 1992, and 84 environmental resolutions have been filed or contemplated for the 1993 proxy season, according to the Interfaith Center on Corporate Responsibility, a group that follows proxy submissions. Telephone Interview with Ariane Van Buren, Staff for Energy and Environment, Interfaith Center on Corporate Responsibility (Nov. 18, 1992); see also Lee M. Thomas, *The Business Community and the Environment: An Important Partnership*, BUS. HORIZONS, Mar.-Apr. 1992, at 21; Pat Widder, *Environment Added to Agenda of Annual Meetings*, CHI. TRIB., Apr. 16, 1990, at C1. Shareholder initiatives on the corporate proxy ballot rarely win a majority, but resolutions that meet the SEC-designated threshold (3% of the vote the first time they are considered, 6% the second) may be presented again the following year. Over time, such initiatives can send a powerful message to management. Widder, *supra*, at C1.

7. E.g., Calvert Social Investment Fund, 7205 Pomander Lane, Chevy Chase, MD 20815; Franklin Research and Development Corporation., 711 Atlantic Avenue, Boston, MA 02111.

8. E.g., Friends of the Earth, 218 D Street, S.E., Washington, DC 20003; National Wildlife Federation., 1412 16th Street, N.W., Washington, DC 20036.

9. E.g., Presbyterian Church, U.S.A.; Interfaith Center on Corporate Responsibility, 475 Riverside Drive #566, New York, NY 10115; American Baptist Home Mission Society, P.O. Box 851, Valley Forge, PA 19481.

10. E.g., New York City Comptroller; State of California Controller.

11. E.g., United States Public Interest Research Group, 29 Temple Place, Boston, MA 02111; Co-op America, Inc., 2100 M Street, N.W., Washington, DC 20063.

12. CERES member organizations represent more than ten million people and over \$150 billion in invested assets. CERES, GUIDE TO THE CERES PRINCIPLES 2 (1992). CERES may be contacted at 711 Atlantic Avenue, Boston, MA 02111.

13. These Principles were initially called the Valdez Principles. In June 1992, they were renamed the

to sign the Principles voluntarily and submit an annual report on their progress in implementing the Principles. Corporations could thereby affirm their intention to serve as environmental leaders and report their environmental performance in a standardized way. This framework not only allows the public to assess corporate environmental responsibility objectively, but also allows investors to evaluate the environmental impact of corporations in their portfolios. According to Joan Bavaria, co-chair of CERES and founder of Franklin Research and Development, the Principles provide investors with the resources to make informed decisions about the allocation of their capital and the power "to influence corporate culture and conduct around the environment through the flow of capital."<sup>14</sup>

Harrison J. Goldin, then Comptroller of New York City, described the motivation behind the Principles at the initial press conference:

We hope corporations come to recognize that environmental considerations are among the most essential to the corporate policy-making process. Hence, our guidelines are in no way weapons of coercion. . . . Rather, at this point the Principles will serve merely as a starting point from which corporations can help us develop a workable approach to environmentally responsible corporate policy making.<sup>15</sup>

Mike McCloskey, Chair of the Sierra Club, echoed this sentiment: "The time is right for corporations and environmentalists to deal directly with each other and not filter everything through government. The companies that sign the CERES Principles identify themselves as ones that organizations like mine should approach in our desire to forge a new relationship."<sup>16</sup>

Reaction to the Principles was swift.<sup>17</sup> The first signatories included small, privately held companies that considered themselves environmental leaders, like Aveda Corporation, a cosmetics and hair care products company using natural ingredients, and Smith and Hawken, a mail order tool company. Larger corporations, however, proved more reticent. In discussions with CERES, major corporations raised numerous objections to signing the Principles, showing considerable skepticism about submitting their corporate policy to oversight by an independent group.

At the same time, corporations began to develop their own answers to the CERES Principles. The Chemical Manufacturers Association publicly announced its own environmental program, Responsible Care.<sup>18</sup> The

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CERES Principles in response to corporate concern that a major environmental initiative should not be identified with one company's response to an environmental incident.

14. CERES, Press Release, Sept. 7, 1989 (on file with author).

15. *Id.*

16. CERES, *supra* note 12, at 2.

17. According to CERES, 51 companies had signed the Principles by the end of October 1992.

18. Dow Chemical, Exxon, and 170 other members of the Chemical Manufacturers Association (CMA) have signed Responsible Care, which is required for membership in the CMA. *Business World* (ABC News, Apr. 22, 1990). The CMA may be contacted at 2501 M Street, N.W., Washington, DC 20037.

American Petroleum Institute developed a set of environmental principles for its members.<sup>19</sup> Corporations involved in the Business Roundtable<sup>20</sup> established the Global Environmental Management Initiative.<sup>21</sup> A number of corporations issued environmental reports or wrote their own environmental policies.<sup>22</sup> Several corporations created the position of vice president for environmental affairs.<sup>23</sup> The International Chamber of Commerce formulated a set of principles for sustainable development which were adopted by many international corporations.<sup>24</sup> Many corporations also reacted quickly and positively to a proposal by William Reilly, Administrator of the Environmental Protection Agency (EPA), which called for a voluntary fifty percent reduction of chemical releases the EPA considered most harmful.<sup>25</sup>

The reactions of industry to the CERES Principles evidence the unwillingness of corporations to cede any element of control of their environmental actions, particularly to non-corporate groups like CERES. Still,

[a]t least partially in response to the Valdez oil spill and the creation of the [CERES] Principles, corporate America has adopted progressive environmental principles tailored to the unique circumstances of particular companies. A heightened consciousness of the need to be a responsible steward of the environment has been achieved from the CEO down through the entire corporation.<sup>26</sup>

Consequently, corporations have begun "to think more seriously about the value of corporate environmental reports and disclosure of information."<sup>27</sup> Industry undertakings, however, cannot offer the objectivity of an independent

19. The American Petroleum Institute may be contacted at 1220 L Street, N.W., Washington, DC 20005.

20. The Business Roundtable is an influential association of the chief executive officers of many of America's largest corporations.

21. The Global Environmental Management Initiative may be reached at 1828 L Street, N.W., Suite 711, Washington, DC 20036.

22. See, e.g., WASTE MANAGEMENT, INC., 1990 ANNUAL ENVIRONMENTAL REPORT (1991); TEXACO INC., ENVIRONMENT, HEALTH & SAFETY REVIEW (1990).

23. These include Bristol Myers-Squibb, The Southern Company, American Electric Power, and Sun Oil Company. Telephone Interview with Margaret Maruschak, Vice President of Issues Management, Bristol Myers Squibb (Nov. 24, 1992); Telephone Interview with Robert Woodall, Vice President of Environmental Policy, The Southern Company (Nov. 24, 1992); Telephone Interview with Dale Heydlauff, Vice President for Environmental Affairs, American Electric Power (Nov. 23, 1992); Interview with Pat Coggins, Vice President for Environmental and Corporate Affairs, Sun Company (Nov. 23, 1992).

24. Companies endorsing the Business Charter for Sustainable Development include DuPont and Union Carbide. Telephone Interview with W. Ross Stevens, III, Manager of Environmental Strategy and Advocacy, E.I. duPont de Nemours & Co. (Nov. 24, 1992). The International Chamber of Commerce may be contacted at c/o United States Council for International Business, 1212 Avenue of the Americas, New York, NY 10036.

25. The 33/50 program calls for a voluntary 33% reduction in emissions by 1992 and a 50% reduction by 1995 of 17 toxic chemicals, like benzene and trichloroethylene, from 1988 levels. About 1000 companies have sent letters of commitment to the EPA. Telephone Interview with David Sarokin, Director of the 33/50 Program for the EPA (Nov. 24, 1992).

26. Letter from Dale E. Heydlauff, Vice President for Environmental Affairs, American Electric Power, to author 1 (June 25, 1992) (on file with author).

27. Letter from W.R. Woodall, Jr., Vice President for Environmental Policy, The Southern Company, to author 1 (June 26, 1992) (on file with author).

reporting mechanism. Furthermore, the low public confidence in corporate self-regulation and government oversight observed by many of those working in the environmental field enhances the need for an independent means of evaluating corporate environmental accountability.

## II. THE CERES APPROACH

The CERES Principles provide a unique approach to corporate environmental responsibility that contrasts with a system of legal sanctions and traditional industry approaches. First, the Principles provide a voluntary corporate ethic for environmental responsibility and accountability to supplement government regulation. Second, they represent a broad consensus among a cross-section of the population. Third, they standardize environmental disclosure. Finally, they apply to corporations' domestic and international operations, and are generic enough to apply to all sectors of industry and commerce. In short, the Principles provide a code of conduct driven by public interest rather than corporate control or legal sanction.

### A. *A Corporate Environmental Ethic*

An ethic is a guiding set of principles, an approach to action that incorporates a particular attitude. It originates from within a corporation rather than being imposed from without. While externally developed, the CERES environmental ethic must be internalized by the signatory corporations so that protection of the environment becomes a top priority.

Corporate capitalism operates as if the Earth provides unlimited resources that can fulfill all needs. Extraction of those resources in the least costly way fuels the corporate need for profit and growth but ignores the limited supply of resources. The CERES Principles recognize that sustainable use of natural resources is ultimately necessary for corporate survival.

Therefore, it is in the long term best interests of corporations to acknowledge responsibility for harm they cause to the environment by recklessly depleting natural resources. A culpable signatory corporation must acknowledge that its actions caused a particular situation and take action to correct the harm caused by its behavior. Signatory corporations understand that a responsible actor does not merely seek legal protection against liability, but acts quickly and adequately to redress human injury and environmental destruction. Signatories also commit to infuse the ethic in all levels of their management structures so that everyone in the corporation comes to accept environmental awareness as an integral part of doing business. Corporations that do not hold their managers accountable for implementing the Principles will probably be unable to fulfill the Principles. For this reason, the Ninth

Principle requires signatories to place ultimate environmental responsibility with their Boards of Directors and Chief Executive Officers.

The CERES Principles are entirely voluntary. No industry association or governmental agency stands ready to enforce them. Corporations that choose to endorse the Principles do so without threat of legal or industry sanction. These companies stand willing to assert leadership on environmental issues. Early CERES signatories were leading-edge companies that wished to make a public statement about their environmental commitment.<sup>28</sup> Recognizing that government regulations have not effectively stopped environmental destruction or adequately redressed problems, these companies see the value in making a voluntary public commitment to accountability.

### B. *Consensus Building*

Corporations and industry associations pursue their own interests, whether in defending against legal challenges or in seeking a competitive edge over others. Their self-interest generally takes precedence over concern for the community as a whole. Consequently, the public remains skeptical when industry asserts its own claims for environmental excellence but does not render itself accountable to external oversight.

Interest group pluralism dominates the American political system. Diverse groups representing different issues and points of view promote policies which work to their advantage. Occasionally, groups coalesce to form a coalition with broader interests. It is difficult to define the "public" in this system. With the predominant culture of individualism and the political function of interest group pluralism, particular interests often vie for survival and dominance in opposition to the greater good of the community.<sup>29</sup>

CERES seeks to build an environmental consensus among a broad spectrum of interest groups. It offers a chance to change the adversarial relationship between industry and environmental activists. The diverse membership of CERES promotes community interests and public accountability in a more inclusive way than can chambers of commerce or industry associations which are biased toward industry.

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28. These firms include the Crib Diaper Service, a Minneapolis company that recycles all its water and sends diaper lint to a company that manufactures art paper; Earth Care Paper Company of Madison, Wisconsin, which provides environmentally sound recycled paper products; and Tom's of Maine, which manufactures natural personal care products.

29. See generally ROBERT BELLAH ET AL., *HABITS OF THE HEART: INDIVIDUALISM AND COMMITMENT IN AMERICAN LIFE* (1985); TOM MCCOLLOUGH, *THE MORAL IMAGINATION AND THE PUBLIC LIFE* (1991) (for discussion of moral dimensions of public responsibility).

### *C. Standardized Environmental Reporting*

Many corporations have produced environmental reports in the past several years. Generally, these are similar to corporate annual reports, and are printed on glossy non-recyclable paper with pictures and fancy graphs. Few contain much information on toxic releases or environmental problems the company faces, or explain how the company has dealt with serious environmental incidents in the past. The public cannot effectively compare the reports, since they contain different kinds of information. Much of the information reported may not be reliable since few corporations have their data or their data-gathering process independently audited.

By contrast, the CERES Report is standardized. Each signatory corporation answers the same set of questions in the same format. These questions gather information on the corporation's adherence to all the Principles in order to assess emergency response and public disclosure policies, relationships with suppliers, energy use, and environmental auditing programs.<sup>30</sup> Presently, CERES is working with several major U.S. corporations to design a report that meets both corporate needs and standards and satisfies public concerns for disclosure of information.<sup>31</sup>

The CERES Report follows the model of standardized disclosure embodied in the system of generally accepted accounting principles. These standards developed over many years and were designed to make financial information accurate and easily understood by people outside the corporation. All corporations follow these standards and are audited by independent accounting firms. Financial information is reported in the annual report and is easily accessible to investors and the general public. Although no such standards exist in the environmental field, a similar need to understand and compare environmental data confronts the public. The CERES Report attempts to develop a format for environmental reporting that furnishes basic environmental information about a company in standardized terms.

### *D. Scope*

Although CERES developed the principles in the United States and has mainly sought endorsements by U.S.-based companies, the coalition recognizes that environmental accountability problems do not end at U.S. borders. Accordingly, the CERES Principles are designed to be applied worldwide, in industrialized nations and in developing nations. The CERES

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30. Forms and copies of completed reports are available from CERES, *supra* note 12.

31. Because the first round of completed CERES reports only became available in mid-1992, and because most early signatories were small, privately held companies, the real test of the CERES Report is yet to come.

Report seeks information on toxic releases and other environmental issues outside, as well as inside, the United States. Moreover, European, South African, and Japanese groups have expressed their interest in the CERES approach.

The CERES Principles apply to all industry sectors because the problems the Principles address are generic. Many corporations argue that their internal codes or industry association codes are more specific to particular problems and are therefore better suited to address environmental problems caused by their industry. This argument ignores the fact that environmental problems transcend industry boundaries. Global warming, acid rain, and toxic fumes know no local or national boundaries; just as various industries interact to create environmental problems, so also solutions must come from all sectors. The CERES Principles do not conflict with specific industry codes, but rather enhance them.

The breadth of the CERES Principles is appropriate. The root meaning of economics encompasses accountability beyond financial matters. The word "economics" comes from a Greek root, *oikonomia*. *Oikos* means house or household and *nomos* means management.<sup>32</sup> *Oikos* is also the root word for the word ecology. *Oikonomia* is often translated as stewardship. All these words refer to activities of a whole, a household, or a system which has many interrelated parts — local communities, the American society, and the Earth itself. The narrow definition of economics that primarily encompasses market theory developed only in modern times as a result of the separation of disciplines in academics and the ensuing specialization of thought. Technical expertise on small pieces of the whole inherently ignores the question of public responsibility. If economic activities, particularly those of multinational corporations, are divorced from their effects on ecosystems, everyone loses.<sup>33</sup>

### III. THE CERES PRINCIPLES

For the convenience of the reader, the following pages reproduce the CERES Principles, as amended through April 28, 1992:<sup>34</sup>

#### *Introduction*

By adopting these Principles, we publicly affirm our belief that corporations have a responsibility for the environment, and must

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32. THE AMERICAN HERITAGE DICTIONARY 437 (2d college ed. 1982).

33. See HERMAN E. DALY & JOHN B. COBB, JR., FOR THE COMMON GOOD: REDIRECTING THE ECONOMY TOWARD COMMUNITY, THE ENVIRONMENT, AND A SUSTAINABLE FUTURE 25-61 (1989).

34. CERES, *supra* note 12, at 5.

## *The CERES Principles*

conduct all aspects of their business as responsible stewards of the environment by operating in a manner that protects the Earth. We believe that corporations must not compromise the ability of future generations to sustain themselves.

We will update our practices continually in light of advances in technology and new understandings in health and environmental science. In collaboration with CERES, we will promote a dynamic process to ensure that the Principles are interpreted in a way that accommodates changing technologies and environmental realities. We intend to make consistent, measurable progress in implementing these Principles and to apply them in all aspects of our operations throughout the world.

### *The Principles*

#### *1. Protection of the Biosphere*

We will reduce and make continual progress toward eliminating any substance that may cause environmental damage to the air, water, or the earth or its inhabitants. We will safeguard all habitats affected by our operations and will protect open spaces and wilderness, while preserving biodiversity.

#### *2. Sustainable Use of Natural Resources*

We will make sustainable use of renewable natural resources such as water, soils and forests. We will conserve nonrenewable natural resources through efficient use and careful planning.

#### *3. Reduction and Disposal of Wastes*

We will reduce and where possible eliminate waste through source reduction and recycling. All waste will be handled and disposed of through safe and responsible methods.

#### *4. Energy Conservation*

We will conserve energy and improve the energy efficiency of our internal operations and of the goods and services we sell. We will make every effort to use environmentally safe and sustainable energy sources.

#### *5. Risk Reduction*

We will strive to minimize the environmental, health and safety risks to our employees and the communities in which we operate through safe technologies and operating procedures, safe facilities and

by being prepared for emergencies.

#### *6. Safe Products and Services*

We will reduce and where possible eliminate the use, manufacture and sale of products or services that cause environmental damage or health or safety hazards. We will inform our customers of the environmental impacts of our products or services and try to correct unsafe use.

#### *7. Environmental Restoration*

We will promptly and responsibly correct conditions we have caused that endanger health, safety or the environment. To the extent feasible, we will redress injuries we have caused to persons or damage we have caused to the environment and will restore the environment.

#### *8. Informing the Public*

We will inform in a timely manner everyone who may be affected by conditions caused by our company that might endanger health, safety or the environment. We will regularly seek advice and counsel through dialogue with persons in communities near our facilities. We will not take any action against employees for reporting dangerous incidents or conditions to management or to appropriate authorities.

#### *9. Management Commitment*

We will implement these Principles and sustain a process that ensures that the Board of Directors and Chief Executive Officer are fully informed about pertinent environmental issues and are fully responsible for environmental policy. In selecting our Board of Directors, we will consider demonstrated environmental commitment as a factor.

#### *10. Audits and Reports*

We will conduct an annual self-evaluation of our progress in implementing these Principles. We will support the timely creation of generally accepted environmental audit procedures. We will annually complete the CERES Report, which will be made available to the public.

#### *Disclaimer*

These Principles establish an environmental ethic with criteria by which investors and others can assess the environmental performance of companies. Companies that sign these Principles pledge to go

voluntarily beyond the requirements of the law. These Principles are not intended to create new legal liabilities, expand existing rights or obligations, waive legal defenses, or otherwise affect the legal position of any signatory company, and are not intended to be used against a signatory in any legal proceeding for any purpose.

#### IV. CONCLUSION

In May 1992, several publicly held corporations joined previous privately held signatories after the Principles were amended to reflect major concerns corporations expressed in discussions with CERES.<sup>35</sup>

The CERES Principles provide a viable alternative to treaties, legal codes, and industry principles. Implementing the principles is not without cost, yet the long-term viability of any corporation must be measured ecologically as well as economically. The principles provide a framework for that measurement.

Since promulgation of the Principles three years ago, the CERES proponents and corporate representatives have engaged in lively dialogue. Flexibility on both sides has yielded a productive, non-adversarial relationship conducive to cooperation on the most difficult environmental problems. Whether the Principles will become a widely recognized standard for public environmental accountability remains to be seen. In the meantime, the Principles have already challenged many corporations to accept greater environmental responsibility and accountability.

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35. These publicly held corporations include Ben & Jerry's Homemade and Ringer Corporation. CERES, *supra* note 12, at 3-4.

