

June 4, 1992

To Our Clients

Corporate Governance

I thought you might find the Report of the Ditchley Conference on Corporate Governance to be of interest.

M. Lipton

Attachment

THE GOVERNANCE AND ROLE OF BUSINESS CORPORATIONS IN A MODERN SOCIETY

Tony Strachan

An essay on a Ditchley Foundations conference held at Ditchley Park, Oxfordshire, England on the weekend of 24-26 April 1992.

An overview

Over recent years, increased public attention to corporate activity and demands for greater accountability have brought into question the whole issue of corporate governance. This has been caused, in part, by a combination of poor corporate performance and some large company failures, often without prior warning, coupled with wider concerns such as environmental issues and executive pay. Whilst both the public and shareholders have a legitimate interest in the answer to the question "why are our companies and their managements not performing more satisfactorily?", it is not always easy to apportion blame among factors such as the general economic and political climate, the problems of the particular markets, the structure of boards and the performance of directors and management within individual companies. It was with the last two factors and with the question of accountability that the Ditchley conference was particularly concerned.

The terms of reference set the scene by stating, *inter alia*, that: "Joint stock companies are responsible for a significant proportion of world economic activity. Unease is expressed from time to time by politicians, by the media and by people in the business world themselves about the managerial and legal framework within which companies operate in the main productive areas of the world. It is right that this should be so, since business is dynamic, but some of the recent and fairly intense criticism calls for constructive study."

Diversity of approach

The similar, but distinct systems of corporate governance in the UK, US and Canada were compared and contrasted with those in Germany, France, Italy and Japan, with helpful illustrations from representatives of the seven nations present. At a superficial level, it is possible to characterise the Anglo-Saxon approach to corporate governance as being more 'confrontational', since it relies on competing pressures and interests to drive performance and on divisions of responsibility between the market, the directors and the management. By contrast, the continental European and Japanese systems are based more on a 'consensual' approach, evidenced by mutual shareholdings and collegiate style boards.

In the UK, the background to the current debate on corporate governance stems from a combination of

declining performance (particularly in international terms), sudden corporate failures and the concentration of management effort on maintaining or improving earnings per share and market price as the prime benchmarks of performance for the company, despite the recession. Two underlying concerns, about effectiveness and accountability, were expressed many times over the weekend, in respect of the UK and other countries. It was seen as crucial that basic issues concerning the function, selection and role of directors and the inter-relationships with the role and responsibilities of shareholders were addressed, both in order to enhance shareholder value and to restore the confidence of the wider community. In this connection it was significant that the report of the 'Cadbury' committee would be available in exposure form towards the end of May, since this would deal specifically with UK issues of control, reporting functions and the audit process.

We were told that the corporate governance debate in the United States of America had evolved quite recently, against the background of declining corporate performance, in the aftermath of what was now seen to have been a period of corporate hyper-activity during the 1980s. There was little doubt of the public concern about, for example, the level of compensation packages for top executives which were tending to rise sharply and out of proportion to bottom line performance. Such issues brought into question, at least from the public's perspective, the possibility of a decline in ethical standards and in the quality of stewardship of corporate assets. Nevertheless, the underlying issue, it was felt, was more about competence than about compensation and the debate in the US appeared to be focusing on ways in which the implementation of strategy and performance criteria laid down by boards of directors could be monitored and, in particular, how the chief executive's performance could be measured against such criteria.

In Canada, the basic structure of corporate law and operating principles are similar to those of the US, albeit in a slightly different environment. The conference was told that there was an enormous concentration of ownership amongst Canadian companies, such that control was frequently dominated by a single majority shareholder, with only a small proportion of shares left in public hands. The issues for the Canadians appeared to centre upon the degree of actual control which could be exercised by the

board in the face of such dominance and on the ways in which the board was nominated, to ensure the right mix of talent and experience. However, it was by no means a simple matter to ensure that independent directors could exert pressure on a reluctant chief executive who might himself be, or be the appointee of, the majority shareholder.

This brief scenario of the current issues in the Anglo-Saxon system of corporate governance was then contrasted with descriptions of the current issues in Germany, France and Japan. In Germany, the two-tier management and supervisory board structure has its origins in the last century, though it has been modified more recently. It is the task of the supervisory board to determine policy and to review and evaluate management performance against established criteria. This structure leaves the day-to-day implementation of strategy firmly with the management board. The conference was also reminded that issues of worker participation were an adjunct to the two-tier board structure and not an integral part of it, as seems so often to be assumed when the issue of two-tier boards is debated in the UK. It was observed that both the existence of investments by financial institutions (banks and insurance companies) and the dual role of worker directors can give rise to potential conflicts of interest.

In Japan, independent directors, in the Western sense, are not a feature of corporate life. Employees are promoted to the board on the basis of ability, experience and seniority, which ensures that the board knows the business well. A Japanese company is not faced with the same short-term demands of the stock market in its decision-making process as a Western company and can plan strategy with a longer-term view. Nevertheless, this approach also raised a number of issues, since it was argued that management was not subject to the same degree of external accountability as would apply in Anglo-Saxon regimes and close networks of cross-shareholdings might be less likely to encourage tough remedial action, if performance declined.

The French system represented a meeting of the Anglo-Saxon and the German or Japanese models and recent changes there lent weight to the view that the two systems were converging. In the 1960s France had appeared to favour 'US' style corporate governance, but we were told that there was now a movement away from the hierarchical structure, as previously evidenced by the "roi-soleil" autocratic company president, to a more collaborative approach.

Throughout this general discussion of the current systems around the world, it was interesting to note how developments were influenced by the relative importance of the stock market in providing funding (in the US and UK) and also the degree to which links had been forged between financial institutions and companies (in Germany and Japan). There is undoubtedly a perception (and some argued that it was no more than that) that the stock market has an undue influence on performance criteria, characterised as 'short-termism'. This is especially so where significant volumes of shares are traded and management had to be, or believes it has to be, on constant guard against takeover: such considerations are far less prevalent in continental Europe and Japan.

Corporate structure

The principal method of organisation used to conduct commercial activity amongst the countries represented at the conference is, of course, the company. A company cannot exist unless the basic elements of a legal structure are in place to allow it to incorporate, trade and, if necessary, be wound up. It was widely accepted that the purpose of corporate activity is to provide the means by which value is added primarily to capital, but also to labour and materials in providing goods or services which people want. However, this definition overlooks the essential element of rewarding the risk which attaches to equity shareholders who are, after all, the ultimate owners of individual companies.

Ownership

Ownership, in its widest meaning, can and does embrace a varied grouping of shareholders whose interests, motives and aspirations vary widely. On the one hand there are the passive 'investors' such as index funds and the short-term interests of the arbitrageurs, whose relationships with the company are purely in relation to the immediate return available: such a grouping of 'punters' cannot be expected to have any depth of relationship with the company. In contrast, true 'ownership' suggests a long-term involvement which should be encouraged to enable a long-term view to be taken of the development of a company's activities. It was felt that this should warrant shareholder interest, both in order to understand the company's philosophy and strategy, but also to take an active part in ensuring the progress and growth of the company through participation in voting at general meetings.

Each of these two categories of 'investors' and 'owners' has its part to play within the corporate structure as we know it. Without the first group, liquidity would be difficult to achieve; without the second group, managers might tend to perform solely to short-term criteria linked to market performance, whilst being wary of a perceived threat of takeover or replacement should their particular policy not have an immediate and visible effect. This could be expected to be to the detriment of research, investment and training, which seem to be more constant amongst Japanese and German companies, where market pressures are less evident.

Responsibilities of publicly owned companies

Since the conference accepted that it was a prime responsibility of every publicly owned company to provide an acceptable return to its shareholders, it also accepted that the framework within which that return was generated would be dictated by explicit constraints of law and regulation, such as the need to account for and pay taxes (of whatever sort), to meet obligations to creditors and staff, to fulfil certain duties to the community (to the extent that these are explicitly provided for) and to minimise fraud. In addition to these requirements there were self-regulatory codes of conduct, set out by trade associations and others. But further considerations were also taken into account when the conference discussed the freedom of a company's board and management to generate an acceptable return, because of the recognition that a company has other constituents (the term "stake

holders'' was often used) including customers, staff, suppliers and the community in regard to issues for which there is no explicit or mandatory obligation to amend otherwise purely commercially determined courses of action.

The rationale for companies to act in recognition of these interests was not exclusively philanthropic and sound business arguments could be advanced to explain why companies modified their behaviour to secure goodwill, enhance recruitment possibilities, develop more highly trained and motivated staff, or build a higher profile, all of which contribute, in due measure, to the added value for risk capital which underlies the whole structure. Indeed, taking account of such interests may well be regarded as aimed primarily at enhancing shareholder value. However, the conference noted that, in many US states and other jurisdictions, the law now recognised that a board's actions might be influenced by such considerations and many companies are formulating their own codes of conduct to establish such policies. Indeed, with rapid growth over the last few years, some 28% of companies in the UK had now developed such codes.

Relationships with shareholders

The feeling expressed by many speakers at Ditchley was that most companies, at least in the Anglo-Saxon environment, had not yet established sufficient procedures to ensure that they took every opportunity to explain to shareholders what the company's strategy was and to invite their active participation, either alone or collectively, in the governance process. There seemed to be two obstacles: the first was the cost and effort of communicating with numerous small shareholders and the second the requirements of insider-dealing legislation, where it exists. On the second point, there was a feeling that legislation in this field might now have gone too far in some countries, since it was tending to have the effect of preventing or inhibiting even the simplest and most innocuous of shareholder associations.

It would be naive to assume that all shareholders would necessarily use additional information, even if it were available, since many investments were made purely on the basis of financial criteria, rather than as the result of a considered appraisal of the operations, structure and long-term prospects of the company itself. In this connection, the growing German experience of 'proxy banks' was noted. These enabled the financial benefits to be segregated from the exercise of voting rights, through shareholder associations. Nevertheless, in instances where it had been tried, it was noted that companies had found benefits in improving relations with shareholders and promoting loyalty and informed interest through the provision of information, beyond that which is required by statute or regulation.

Accordingly, it was felt that boards of directors and managements should be encouraged to improve their annual reports, and take other opportunities to report and explain indicators of long-term development, such as expenditure on research and development and training, as well as the company's policy in relation to environmental and consumer issues. Inevitably, such information would

be largely qualitative and this would limit the extent to which any regulation, brought in to deal with shortcomings in this area, could specify the degree of detail which might be required. Nevertheless, such an approach to providing information should be seen as a positive virtue arising out of enlightened self-interest and directors should not necessarily allow arguments about commercial confidentiality to override moves towards greater disclosure of this nature without very careful consideration. It was felt that a balance could be struck between the provision of information to satisfy the legitimate interest of the 'owners' of a company, whilst avoiding disclosure of market-sensitive material to competitors.

Composition of the Board

Having examined these issues of structure, ownership and responsibility, participants turned their attention to the internal governance of companies and the respective roles of the board of directors and the management team. The term 'independent' director was preferred to the more conventional 'non-executive', since it seemed to reflect more accurately what was really required of the individual. Participants opted, at an early stage, to use the term 'independent', but later focused more closely on what this meant. The issue of independence could be assessed against two criteria: the first relates to any particular constituency that the director might be considered to represent, by virtue of his background and his nominator, and the second refers specifically to the financial involvement of that director with the company. The first concept presented more difficulty, since it was increasingly the case that directors were appointed as particular representatives of significant shareholders, or perhaps even because of their involvement in a particular lobby group or special interest constituency. The second might be subject to varying criteria for assessing whether or not small holdings of shares in the company, or the existence of loans, might impair, or be thought to impair, the director's ability to make decisions in the best long term interests of the company as a whole. It was recognised that in all the countries represented, the legal responsibilities of a director were common and indistinguishable, regardless of whether the director was executive or independent, or whether the nature of the appointment stemmed from a particular interest, background or talent, unique to the individual.

It was generally accepted that a crucial function for any board was to determine the strategy of a company and to monitor management's performance against that strategy. What was less clear was the way in which this function should be fulfilled, given the different composition of boards and the dominance, in many cases, of majority shareholders who were often directly involved in the management process. Accordingly, the role of 'independent' directors came in for much discussion. The process of setting and monitoring strategy also suggested that, in order to ensure that management was performing to the level required by the board, there must be a proper flow of information between the board and management. Moreover, decisions must be taken in a timely fashion and

the risk of abuse from fraud needed to be minimised. Checks and balances, together with clear measures of performance, were necessary to ensure that this process worked efficiently.

The external checks and balances on a company will vary, to some degree, with the environment within which it operates. Accordingly, stock markets impose greater disciplines in the Anglo-Saxon world than in other countries such as Japan and Germany, whilst the degree of bank participation, either through debt or equity, will determine the extent to which the banking community has a legitimate interest in the way in which companies are run. Moreover, as has already been pointed out, most territories have codes of best practice, or other forms of quasi-regulation in the form of self regulatory or trade associations, which provide either a degree of monitoring, or at the very least informed comment, which has the effect of making a company subject to the sanction of the peer group concerned. Other external checks and balances include public commentary through the press, consumer groups and analysts, as well as customer interests (as measured by complaints) and the audit function. This last aspect, in particular, was discussed as representing one area in which the conference felt the need for close scrutiny through a direct relationship between the external auditors and an audit committee composed of independent directors.

External checks and balances are not, of course, sufficient in themselves, since it would be imprudent, to say the least, for the directors and management to ignore internal checks and balances which are, or should be, available. Within this area, there was disagreement amongst the participants as to whether or not the roles of the chairman and chief executive should be separated. The prevailing UK view seemed to be that there should be separation, to ensure that the chairman's ability to be advised by the non-executive directors is unimpaired by the narrower focus and possible self-interest which may be present if that same person is also a member of the management team. However, colleagues from other countries believed that there was no proof that the separation of functions necessarily achieved any desirable end, provided the individual concerned recognised his distinct responsibilities as chairman to ensure a proper flow of information to the board and timely debate of the issues. Several went further and pointed to greater efficiency to be gained through combining the roles. The issue was unresolved.

Clearly the extent of participation of independent directors in the deliberations of the board will be limited by their usually extensive outside commitments and the time they are expected to devote, which seemed to be more significant in the UK than elsewhere. Furthermore, it was recognised that in companies where the dominance of controlling shareholders or personalities is apparent, there is a clear need to ensure that the independent directors are not bulldozed into acceptance of proposals with which they do not wholly agree, but feel obliged to support, possibly because the renewal of their appointment is in some very direct way dependent on the line they adopt on such matters. However, it was believed that good

interaction between management and board should not mean that the board is confined to rubber-stamping proposals which had been worked out in detail by management over many weeks or months prior to a short board debate. It was felt that if the board could be actively involved in the implementation of strategy, short of direct interference in detail, then it could express approval or concern which could then be reflected in the management's subsequent specific proposals and thereby ensure that, so far as was possible, the board was never put in a position of having to turn down detailed plans at a time when extensive commitment has been made by the company and executive morale was at stake.

The composition of the board is a crucial part of this dynamic process and some considerable time was spent by participants in considering the selection process for directors, the balance of executive and independent directors and the appropriate blend of background and experience required. This suggested to the conference that there should be a much clearer identification of the talents needed to deal with situations, so as to reach proper, informed conclusions. It was argued that these should be formalised into what amount to job descriptions for directors. However, there was also widespread acceptance that the job description should be influenced not only by commercial considerations, but also by broader characteristics which would take into account the wealth of experience which might be available to the company.

The methods by which new directors are nominated came in for some scrutiny, though discussion was, of course, based extensively on western boards, as distinct from Japanese boards where directorships are seen as internal appointments and independent directors, in the western sense, are not a feature. Within the western environment, there was substantial agreement with the concept of having a preponderance of independent directors on the boards of financial institutions such as banks, trust companies, etc. although this was not felt so strongly in relation to other corporate ventures. It was considered more important to seek and involve the best talent available in relation to the specific needs of that company. To this end, it was agreed, quite widely, that the board should not become self-perpetuating through, for example, the chairman or chief executive being primarily responsible for the nomination of potential directors: this was felt to carry the risk of appointees who would either conform to the nominee's own image or meet some particular personal criteria, which might not be in the best long-term interests of the company as a whole. Instead, nomination processes should be heavily influenced by the independent directors, to ensure that all aspects of the task were properly considered: the method which found most support was the creation of a nomination committee comprising the chairman and a number of independent directors.

Returning to the premise that the first responsibility of the board was the establishment of a strategy for the company, it was a logical step for the conference to agree that the board is also responsible for monitoring the implementation of that strategy and, if necessary, taking

appropriate steps to correct or even change management. This may not be easy or pleasant and requires the board, and in particular the independent directors, to have a clear sight of their responsibilities. Furthermore, it was agreed that independents should accept prime responsibility for executive remuneration through a remuneration committee, in order to link the responsibility for monitoring performance with accountability. The participants warmed to the idea of having a 'lead' director who could act as the focus for concern and dissent among the board, so as to attempt to draw such matters to the chairman's attention at an early stage and well before a crisis. This would be particularly important where the roles of chairman and chief executive remained combined. However, it was felt to be important that the independent directors should be free to meet openly, without executives present, and not have to resort to furtive meetings, as had sometimes been the case.

Measures of performance

There has been a tendency, particularly amongst the strongly market-orientated companies of the Anglo-Saxon world, to rely exclusively on financial criteria and to attempt to manage for results in terms of the market's expectations of earnings per share, dividends, gearing, etc. This view was considered to be too narrow and it was accepted that other measures of performance could not, and should not, be ignored. Inevitably, the question of "short-termism" arose, with most participants believing that this approach to corporate decision-making was not as prevalent as some commentators would have us believe. Nevertheless, methods were considered which might have the effect of injecting more stability and loyalty into some share registers, whilst also enhancing, directly or indirectly, shareholder value. These included maturation (the progressive enhancement of voting rights with length of shareholding, a process that has been tried in the US with little success) and short-term capital gains taxes which, in the UK at least, would affect non tax-paying institutional investors such as pension funds.

However, the conference came back to the theme of the need for information to be made available by the management to the board and by the company to its shareholders, to allow a true assessment of overall performance. Some of the measures of performance considered as appropriate for consideration, given the availability of relevant information, were performance against budget, progress on projects and measures of fulfilment of less

tangible, but nevertheless important aims such as performance against mission statements, the effective use and development of human capital, recruitment trends, research and development spending, quality of goods and services and degrees of customer satisfaction. Whilst all forms of qualitative reporting would be subjective to a degree, this should not make them any less relevant, since their purpose was to allow accurate assessments to be made of the company's performance, so that minor changes could be effected as necessary, rather than await major problems which would then be costly and time-consuming to deal with, have a detrimental impact on the owner/market relationship, and cause significant damage in terms of goodwill with customers, suppliers and others.

Regulation

All of this naturally led to consideration of whether or not further direct regulation of companies was desirable. Here there were some differences of opinion between those who believed that role models would be sufficient to encourage enlightened self interest to spread, as the benefits were recognised, and those who believed that formal or informal codes of best practice were devised, and normally paid for by the 'good' performers under the criteria and often ignored by the 'bad' performers at their peril, but in pursuit of short-term goals. There was however a reasonable consensus that detailed legislation should be avoided, whenever possible, to preserve flexibility, but that absolute freedom should, where appropriate, be circumscribed by adequate self-regulation. Nevertheless, in forming this view, current methods of self-regulation, particularly in the UK, came in for criticism as being too complex, diverse and bureaucratic.

Conclusion

It had been a most enlightening and stimulating weekend, from which we all gained by drawing on the very considerable breadth and depth of experience available to inform our debate and offer new insights into each topic. The absence of a consensus on some issues and the difficulty of identifying common ways forward should be construed as evidence of the range of issues considered and the diversity of the cultures and backgrounds of those present. Though large in number, our participants would undoubtedly constitute a formidable board for a multi-national, should the need ever arise!

LIST OF PARTICIPANTS

Chairman: Sir Nicholas Goodison, Chairman, TSB Group (1989-); Member, Council, Stock Exchange (1968-88); Chairman, Stock Exchange (1976-86); President, International Federation of Stock Exchanges (1985-86); Chairman, International Stock Exchange (1986-88); Director: General Accident, Fire and Life Assurance Corporation plc (1987-); Ottoman Bank (1988-); British Steel (1989-); TSB Bank (1989-); Deputy Chairman, Committee of London and Scottish Clearing Banks (1989-).

Mr Richard Beattie, Managing Partner, Simpson Thacher & Bartlett (lawyers), New York; Deputy General Counsel (later Executive Assistant to Secretary), Department of Health, Education and Welfare (HEW) (1977-79); General Counsel, HEW (1979); Director of Transition, and Special Counsel to Secretary, Education Department (1980); a Director, American Ditchley Foundation.

Sir Adrian Cadbury, A Director, Bank of England (1970-); Chairman, Committee on Financial Aspects of Corporate Governance (1991-); Chairman, Cadbury Schweppes (1975-89)(Deputy Chairman and Managing Director 1969-74); Director: Cadbury Bros Ltd (1958); IBM UK Ltd (1975-); National Exhibition Centre (1989-); Member: Supervisory Board, DAFBV (1988-); Panel on Takeovers and Mergers (1990); Chancellor, University of Aston in Birmingham (1979); Chairman: Food and Drink Industries Council (1981-83); Promotion of Non-Executive Directors (1984-); President, Birmingham Chamber of Industry and Commerce (1988-89).

Sir Geoffrey Chandler CBE, Industry Adviser, Royal Society of Arts (1987-); Shell International Petroleum Company: Manager, Economics Division 1957-61; Area Co-ordinator, West Africa 1961-64; Chairman and Managing Director, Shell Trinidad Ltd 1964-69; Public Affairs Co-ordinator, Shell International 1969-78; Director 1971-78; Director General, National Economic Development Office and Member, National Economic Development Council (1978-83); Director, Industry Year 1986 (1984-86); Chairman, BBC Consultative Group on Industrial and Business Affairs, and Member, BBC General Advisory Council (1983-); President, Association for Management & Business Education (1986).

Mr Jonathan Charkham, Adviser to the Governors, Bank of England (1988-)(Chief Adviser (1985-88); Director (on secondment from Bank of England), Promotion of Non-Executive Directors (1982-85); Under Secretary, Management and Organisation, Civil Service Department (1980-82); member: Industry and Finance Company (1988-90); Steering Committee, Corporate Takeovers Enquiry (1990-); City Transportation Task Force (1990-).

Mr Nicholas Colchester, Deputy Editor, *The Economist* (1989-)(joined 1986); *Financial Times*: New York Correspondent (1970-73), Bonn Correspondent (1974-79); Financial News Editor (1977-81); Foreign Editor (1981-86).

Ms Brenda Dean, Deputy General Secretary, Graphical Paper & Media Union (GPMU)(1991-); (President 1983-85, General Secretary, Society of Graphical and Allied Trades 1985-91, SOGAT '82); SOGAT Manchester Branch: Assistant Secretary (1972-76), Secretary (1976-83); Member, National Executive Council (1977-83); Co-Chairman, Women's National Commission (1985-87); Member: Printing and Publishing Training Board (1974-); Supplementary Benefits Commission (1976-80); Price Commission (1977-79); Occupational Pensions Board (1983-87); General Advisory Council, BBC, (1984-88); TUC General Council (1985-); National Economic Development Council (1989-).

Mr Robert Engel, Senior Adviser, Dillon Read & Co Inc.; previously Group Executive, JP Morgan & Co Inc, Morgan Guaranty Trust Company of New York; Treasurer, American Ditchley Foundation.

Mr Geoffrey Fitchew, Director-General DGXV (Financial Institutions and Company Law), Commission of the European Communities (1986-); HM Treasury: (1964-86) Under Secretary, in charge of European Community Group and Alternate Director of European Investment Bank (EIB), 1983-85; Economic and Financial Counsellor, UK Permanent Representation to EC 1978-80; Under Secretary, External Finance Group 1985-86; Alternate Member, Monetary Committee 1983-86.

Mr Richard N Foster, Senior Partner and Director, McKinsey & Co Inc; committee member: National Academies of Science and Engineering; Conference Board; Industrial Research Institute; contributor to several journals; author.

Mr Michael Fowle, Head of Audit, KPMG Peat Marwick.

Dr Michel Ghertman, Hautes Etudes Commerciales (HEC), School of Management, Strategy and Business Policy, Jouy-en-Josas; previously Visiting Professor, University of California, Berkeley, and international consultant with special interest in strategy of multinational companies; member editorial board, board of directors, Strategic Management Society.

Professor James M Gillies, Professor of Policy and Director, Max Bell Business Government Studies Program, Faculty of Administrative Studies, York University; author, (most recent publication: *Boardroom Renaissance: Power, morality and Performance in the Modern Corporation*); former Chairman, Ontario Economic Council; has served on the board of more than 35 corporations.

Professor Ronald J Gilson, Charles J Mayers Professor of Law and Business and Director, Law and Business Programme, Stanford University School of Law; Visiting Henley Professor of Business and Law, School of Law, Columbia University Graduate School of Business and Law (1991-92); previously visiting professor, Yale Law School and Visiting Scholar, Hoover Institution; author; Reporter, American Law Institute's Corporate Governance Project; member, California Senate Commission on Corporate Governance, Shareholder Rights and Securities Transactions; Academic Advisory Board member, Centre for Research on Contracts and Structure of Enterprise, Katz Graduate School of Business, University of Pittsburgh.

Professor Harvey G Goldschmid, Dwight Professor of Law, Columbia University School of Law, specialising in corporate law, securities law and antitrust; Director, Columbia University, Center for Law and Economic Studies; author; Reporter, American Law Institute Corporate Governance Project; Chairman, Audit Committee and Committee on Corporate Takeover Legislation, Association of Bar of City of New York (previously Chair, Executive Committee and Chair, Committee on Antitrust and Trade Regulation); consultant, Federal Trade Commission.

The Hon Thomas Hockin, Member (Progressive Conservative)(London West), House of Commons, Ottawa-Hull (1984); Minister of State (Small Businesses & Tourism) Government of Canada (1989-); Minister of State (Finance) (1986-89); Professor of Political Science, York University, Toronto (1967-81); Professor (Business Administration), University of Western Ontario School of Business, Ontario (1981-84); Headmaster, St Andrew's College (private secondary institution), Ontario (1974-81); author.

Lady Howe JP, Director: Kingfisher (formerly Woolworth Holdings) Plc (1986-); United Biscuits (Holdings) Plc (1988); Legal and General Group (1989-); Chairman of an Inner London Juvenile Court (1970-90); Deputy Chairman, Equal Opportunities Commission (1975-79); Chairman: BOC Foundation for the Environment and the Community (1990-); Hansard Society Commission on Women at the Top (1989-90); Women's Economic Development Target Team, Business in the Community (1990-); Member of Council, Policy Studies Institute (1983-).

Mr Hideo Ishihara, Deputy President, The Industrial Bank of Japan, Tokyo.

Mr Stanley Kiaer, Director, Institute of Business Ethics, London.

Mr George N Lindsay, Of Counsel (former Presiding Partner and former Resident Partner, London), Debevoise & Plimpton, New York; Honorary Trustee (former Vice Chairman), Carnegie Institute for International Peace; Director (former Chairman of Board of Directors), African American Institute; Member, Board of Directors, the American Ditchley Foundation.

Mr Martin Lipton, Partner, New York City lawyers, Wachtell Lipton Rosen & Katz; Trustee: New York University; University of Pennsylvania; President, Board of Trustees, New York University Law School; member, Council of American Law Institute.

Sir Richard Lloyd Bt, Deputy Chairman, Vickers Plc (1989-)(Director 1978-, Chairman Designate 1992-); Deputy Chairman, Hill Samuel & Co Ltd (1978-87 and 1991-)(Chief Executive 1980-87, Chairman 1987-91); Chief Executive, Williams & Glyn's Bank (1970-78); Director, Legal & General Group (1966-); SIEBE (1988-); Simon Engineering (1988); Harrisons & Crosfield (1988-); Member: CBI Council (1978-); Industrial Development Advisory Board (1972-77); National Economic Development Council (1973-77); Committee to Review the Functioning of Financial Institutions (1977-80); Overseas Projects Board (1981-85); Advisory Board, Royal College of Defence Studies (1987-); a Governor, Member, Council of Management, and Chairman, Finance & General Purposes Committee, Ditchley Foundation.

Professor Jay W Lorsch, Harvard Business School: Senior Associate Dean for Executive Education and Louis E Kirstein Professor of Human Relations; Chairman, Organisational Behaviour Area; Chairman, Advanced Management Programme (1980-85); Senior Associate Dean and Director of Research (1986-91); consultant; author; Faculty Principal, Management Analysis Center; Director, Brunswick Corporation and Sandy Corporation.

Professor George S McIsaac, American Telephone and Telegraph Company Resident Management Fellow and Executive Professor of Business Administration, William E Simon Graduate School of Business Administration, University of Rochester, New York (1985-); McKinsey & Company Inc (1962-78)(Director, 1973); Assistant Secretary (Resource Applications), Department of Energy (1978-80); Senior Vice President, Schlegel Corporation (1980-85).

Mr John McNeil, Chairman and Chief Executive Officer, Sun Life Assurance Company of Canada (1988-); Director: Marathon Realty; Shell Canada; member, Business Council on National Issues and Vice Chairman, C D Howe Institute.

Mrs Barbara Mills QC, Director of Public Prosecutions (1992-); Director, Serious Fraud Office (1990-92); a recorder of the Crown Court (1982-); Junior Treasury Counsel, Central Criminal Court (1981-86); Member: Criminal Injuries Compensation Board (1988-90), Parole Board (1990); Legal Assessor to General Medical Council and General Dental Council (1988-90).

Mr Glen R Moreno, President, Fidelity International Ltd (1987-91); Director: Fidelity International Ltd, London; Fidelity Funds, SA; Rea Brothers Group plc; Knightsbridge Futures Ltd, (1991-); Chairman: Taiwan Fund (1988-); The Indonesian Capital Fund Ltd (1989-); Latin American Capital Fund Ltd (1991-); a Governor, and Member, Council of Management, the Ditchley Foundation (1983-).

Mr Peter Morgan, Director General, Institute of Directors (1989-); Director: IBM UK Ltd (1983-87); IBM UK Holdings Ltd (1987-89); IBM UK Trust Ltd (1987-89); Director: NCC (1981-89); South Wales Electricity plc (1989-); Director Publications Ltd (1989-); National Provident Institution (1990-); Council, National Forum for Management Education and Development (1990-).

Mr Philip R O'Connell, Lawyer and corporate governance consultant in Stamford, Connecticut; member: Corporate Governance Subcommittee, Legal Advisory Committee, New York Stock Exchange; Lawyers Steering Committee, The Business Roundtable Corporate Governance Task Force (chairman (1981-87); Working Group on Corporate Governance which drafted "A New Compact for Owners and Directors" *Harvard Business Review* (1991); chairman, American Society of Corporate Secretaries; formerly, Senior Vice President and Secretary of Champion International Corporation.

Mr Francesco Pellei, Managing Director, AGIP UK, London.

Mme Hélène Ploix, Deputy chief executive officer, Caisse des Dépôts et des Consignations, Paris (1989-); Director, Compagnie Européenne de Publication (CEP), Paris (1978-82); Managing Director, Banque Industrielle et Mobilère Privée (BIMP) (1982-84)(Member, "Collège de la Commission des Opérations de Bourse" (1983-84); Adviser to Prime Minister for Economic and Financial Affairs (1984-86); Executive director, International Monetary Fund & World Bank, representing France (1986-89).

Miss Ellen Schneider-Lenné, Member of Board of Managing Directors, Deutsche Bank AG, Frankfurt, responsible for Financial Institutions Division (1988-)(Deputy Managing Director, 1988-90, Managing Director, 1990-); Chairman, Supervisory Board, AKA Ausfuhrkredit GmbH; Deputy Chairman, Supervisory Board: Industrial Bank of Japan (Deutschland) GmbH; Zurich Investment Gesellschaft mbH; Member, Supervisory Board: Honsel-Werke AG; Karstadt AG; Orenstein & Koppel AG; Rheinisch-Westfälische Kalkwerke AG; Member, Board of Directors, ICI; Morgan Grenfell Group plc.

Dr Rosemary Stewart, Fellow in Organizational Behaviour, Templeton College, Oxford; author.

The Rt Hon the Earl of Stockton FRSA CBIM, President, Macmillan Ltd (1990-); Liveryman: Worshipful Company of Merchant Taylors (1972), (Member, Court of Assistants (1987-); Worshipful Company of Stationers and Newspaper Makers (1973); Chairman, Central London Training and Enterprise Council (CENTEC); President, Westminster Chamber of Commerce.

Mr Tony Strachan, The Bank of England: Industrial Finance Division (Group Leader) (1991-); Seconded to Takeover Panel as Assistant Secretary (1989-90); Banking Supervision Division (1985-88).

Ms Sarah A B Teslik, Executive Director, Council of Institutional Investors (joined 1985); previously, corporate and securities attorney, Willkie Farr & Gallagher, with several large public pension funds and investment firms as clients.

Mr Richard W Tookey CBE, Shell International Petroleum Co Ltd: Director and Group Public Affairs Co-ordinator (1984-); Shell Tankers (UK) Ltd: Chairman (1980-84)(Managing Director 1978-79); Managing Director, Shell International Marine Ltd (1980-84); Marine Co-ordinator, Shell International Petroleum Co Ltd (1980-84); Member, General Committee, Lloyd's Register of Shipping (1978-85); President, General Council of British Shipping (1983-84); part-time member, British Railways Board (1985-90).

Sir Christopher Tugendhat, Chairman, Abbey National plc (1991-); Director, BOC Group plc (1985-), Eurotunnel plc (1991-), LWT (Holdings) plc (1991-); Director: National Westminster Bank (1985-91)(Deputy Chairman, 1990-91); Commercial Union Assurance (1988-91); Member of Parliament (Conservative), City of London and Westminster South (1974-76) (Cities of London and Westminster 1970-74); member (1977-84), a Vice-President (1981-84), Commission of the European Communities; Chairman, Royal Institute of International Affairs; Member, Council, Centre for European Policy Studies, Brussels; Chairman, Civil Aviation Authority (1986-91); a Governor and Member of the Council of Management, The Ditchley Foundation.

Mr Howard I Wetston QC, Director of Investigation and Research (DIR), Bureau of Competition Policy (1989-); previously: Senior Deputy DIR, Mergers (1986-89); private practice: Burnet, Duckworth & Palmer (Calgary) and Phillips & Vineberg (Montreal) (1985-86); General Counsel, Canadian Transport Commission (1983-85); Assistant General Counsel, National Energy Board (1982-83); General Counsel, Consumers' Association of Canada (1981-82); Crown Counsel, Attorney General Department (Nova Scotia) (1975-76). Has been an adjunct professor of the Faculty of Law, University of Ottawa. Member: Ontario, Nova Scotia and Alberta Bars.

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