

## **Case study: ABB and Sudan – the value of stakeholder engagement**

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This case study covers the period 2004 to the end of 2006. In it, the following questions are addressed:

1. What factors must a company consider in deciding whether to operate business in a sensitive, i.e. weak governance, country?
2. What steps must a company take to ensure it identifies and mitigates the risks of working in such a country?
3. How may the company avoid complicity in human rights abuses which are occurring in the country?
4. How effective is company/stakeholder dialogue?

### **Background**

ABB is a Zurich-based electro-engineering company which provides power and automation technologies, and operates in roughly 100 countries. ABB has never had any manufacturing sites or operations in Sudan. Since the 1970s, the company has acted as a supplier of equipment to other companies there and has not paid direct taxes to the government. At the end of 2006, ABB had one employee based in Khartoum. Virtually all of the work has been concentrated in the Arab-dominated north of the country. Furthermore, the company's volume of business in Sudan was comparatively low (in 2006 the company had double-digit million net revenues whereas the company turnover was \$28 billion).

### **ABB and human rights**

After its formation through merger in 1988, ABB focused heavily on environmental and social policy, ensuring that it adhered to standards of performance and operations and exceeded international norms and regulations where possible. In the past few years ABB has increased its focus on human rights considerations in business. One way in which ABB has done this is by becoming a signatory to the UN Global Compact in 2000. ABB also initiated its Access to Electricity rural electrification programme in Africa. As a leader in long-distance power transmission and distribution, it was able to contribute strongly to the World Commission on Dams.

As part of its growing recognition that non-financial criteria were important and contributed to bottom-line success, ABB began actively participating in the Business Leaders Initiative on Human Rights (BLIHR). ABB is also active in a number of other initiatives.

ABB's case study on Sudan has been presented at a number of meetings and conferences organised by international organisations including the UN Global Compact, BLIHR, Amnesty International Business Group and socially responsible investment funds. This case study emphasizes the need for partnerships and extensive stakeholder engagement in sensitive countries. A stock divestment campaign in the United States in 2005/6 by pension funds and universities against companies with business operations in Sudan also led ABB to carefully consider the possible consequences of its actions in Sudan, as well as its responsibilities and associated human rights issues in the country.

### **ABB's operations in Sudan**

#### The Merowe Dam

The Merowe Dam project is 450 kilometres north of Khartoum and when completed in 2008, will double the country's power supply. Power from the dam will be distributed mainly to Dongola on the Nile, the Khartoum region and Port Sudan on the Red Sea coast. ABB has supplied distribution and transmission equipment. This was by far the largest of ABB's power contracts in the country. ABB has supplied to contractors at the Merowe Dam, such as Harbin Power Engineering Company (China) and Alstom. The customer is the National Electricity Corporation. Other power transmission and distribution equipment has been supplied to other projects in the north of the country.

#### Heglig Oil Field

In 2003, ABB won a contract to supply flow control meters to the Heglig oil field in the “border” area between south and north Sudan. The meters, essential for safety, were supplied to the China Petroleum Engineering and Construction Company. The customer was The Greater Nile Petroleum Operating Company. This contract has been completed.

### Equipment Supply

Low-voltage equipment, such as light switches, were supplied through third parties to individual customers in Sudan. The volume of this business was very small.

### **The Human Rights Argument**

ABB abides by all relevant international sanctions and export control regulations. It has faced criticism, however, over its involvement in Sudan and allegations of complicity in human rights abuses in the country.

A number of ABB stock investors in the United States, Switzerland and Sweden expressed concern in 2005/6 about the company’s presence in Sudan, in view of the ongoing atrocities in the western Darfur region. In some cases this concern was accompanied by a threat of stock divestment and a demand to pull out of the country (see 6.c below). These investors viewed ABB’s presence in the country as tacit support for a government which the US administration had branded as responsible for “genocide” (a term not used by other governments).

The International Rivers Network, along with other NGOs opposed the Merowe Dam project for a number of reasons. The dam was displacing 50,000 ethnic Amri people; there were allegations of forced movement, inadequate compensation and poor agricultural conditions in their new home areas; in addition, IRN pointed to environmental damage caused and the flooding of a significant archaeological site by the proposed dam.

Finally, the supply of flow control meters to the Heglig oil field was viewed by some as tantamount to supporting the government’s campaign and activities in Darfur. The line of argument was and still is that oil is the government’s main source of income, and therefore its main source of funds for military operations in Darfur. ABB was therefore accused of helping to bankroll the military.

In conclusion, ABB was accused of abetting the violation of civil and political rights in Darfur, and violating the economic, social and cultural rights of the people affected by the construction of the Merowe Dam.

### **The need for stakeholder engagement**

As early as 2004, prior to the main flurry of criticism, ABB considered the possibility of examining, in depth, its human rights practices. This found form in:

- A human rights checklist, based on the *Draft UN norms for trans-national companies* and Global Reporting Initiative indicators, which ABB drew up on behalf of the BLIHR group and tested in some of its operations in sub-Saharan Africa. The checklist for project managers (see BLIHR 2 Report) was later deemed to be only a partial success; it was effective for countries with strong governance, but found to be inadequate in more complex situations.
- The idea of engaging in stakeholder dialogue on Sudan and holding a forum of stakeholders in Khartoum to test ABB’s assertions that it was a force for good in the country and not complicit in any human rights abuses.

ABB sought to clarify a number of key issues in Sudan. Broadly, the priorities were to:

1. Map stakeholder opinion about its business activities in the country;
2. Identify which human rights were impacted, directly or indirectly, by its business;
3. Establish if there were any areas where ABB was complicit in human right violations;
4. Establish if such violations were taking place within its sphere of influence;
5. See what it could do to improve human rights within its sphere of influence; and
6. See if there were lessons to be learned in Sudan which could be applied in other countries where the company operates.

### **Proactive engagement**

This period coincided with a phase in which ABB was rebounding to economic health after a crisis. ABB proactively engaged with three groups: consulting specialists, stakeholders on the ground in Sudan, and critics. In addition, as the work continued, ABB increased engagement with ABB management and employees.

#### Consulting specialists

ABB consulted with Professor Alan Miller of McGrigor's Rights, an international human rights lawyer with specialist knowledge of Sudan; Amnesty International Business Group; and latterly organizations such as the UN Global Compact. The presence of an external adviser from the start not only provided ABB with excellent advice (and sometimes pointed criticism), but also provided direction to ABB regarding its operations in order to be more sensitive to human rights. Professor Miller also provided credible third-party insights during discussions with stakeholders. Amnesty International advised ABB that it should proceed with caution and engage with stakeholders to ensure the validity of the company's claim to be a force for progress.

#### Mapping stakeholder opinions and conditions in Sudan

Professor Miller and two ABB colleagues – one from ABB Egypt, which has stewardship over the company's activities in Sudan, and one from ABB Sweden – paid several visits to Sudan over the course of a year. They held a series of discussions with representatives of different government ministries, international NGOs, UN and international agencies, as well as members of the Merowe Dam authorities (MDPIU), diplomats, the British Council and others. The feedback received was unanimous: all stakeholders advised ABB against withdrawing from the country. To do so, they said, would undermine the fragile reconstruction process and deny the country much-needed infrastructure.

#### Partnerships pay off

The process of setting up a stakeholder forum meeting was challenging and protracted. The outcome was a successful meeting in Khartoum, May 2006, initiated by ABB, and subsequently organized by the UNDP and Afhad University for Women in Khartoum, with co-sponsorship by ABB and Shell. The meeting – called “Public-private partnerships: A post-conflict framework of shared opportunities and responsibilities” – was attended by 40 representatives of the government, local and international businesses, NGOs, local and international UN officials and observers. It was addressed by Sudanese and foreign speakers. Speakers addressed what is being done to strengthen business and social conditions in Sudan and other parts of Africa, and the need for strong governance and observance of human rights norms. There were also break-out sessions on the most effective means of creating the right business climate in the country so investment could go ahead without fear of perceived complicity in human rights abuses.

The meeting concluded with a decision to set up a local UN Global Compact network, led by local business with the support of the UN. It marked a “modest but valuable step” towards progress in Sudan, according to a representative of BLIHR at the Khartoum meeting. A follow-up meeting is expected in 2007. ABB believes the outcome of the forum demonstrated how a company can be a force for positive change.

#### Meeting concerned stakeholders

Starting in Spring 2005, concerned investors from the US, Switzerland, and Sweden questioned ABB about the company's business operations in Sudan and possible complicity in human rights violations. The inquiries ranged from polite inquiries by investment fund managers to threats to divest ABB's stock unless it withdrew from Sudan. ABB decided to present transparently what it was doing in the country and seek dialogue proactively. This decision to engage directly with different organizations was generally productive and illuminating for both sides.

The meetings started in September 2005 with two Swiss investment funds; later in the year they withdrew their intended divestment of ABB stock on the basis of that conversation and agreed to watch further developments. In response to ABB's communications with stakeholders, stakeholders in some cases placed ABB on “watch” lists instead of targeting it for immediate divestment.

While several meetings were held under the Chatham House rule, the contents of others – and statements on certain issues – were recognized as being in the public domain and were published on stakeholder partners' websites.

### Employee consultation

In November 2004, the then-CEO and chairman Jürgen Dormann – who wrote regular weekly letters to all employees – focused his attention on working in sensitive countries in his weekly communication on the intranet. In November, Dormann, in one weekly letter, considered business involvement in a sensitive country, and ABB's role in long-term infrastructure development. He presented issues, and offered opportunity for feedback. Subsequently, with investor pressure mounting, top management closely reviewed the issues associated with continued business involvement in Sudan. Top management was vital to setting the tone for in-depth discussion and further external engagement.

### **Key issues**

ABB examined its performance and potential for improvement within the context of models drawn up by BLIHR. In particular, ABB assessed how it measured up against "essential", "expected" and "desirable" levels of human rights obligations in Sudan and sought to define its sphere of influence.

### Generally

The standards that ABB set in its operations on the ground went well beyond the level of "essential behaviour" – observance of national and international legal minimums – and in some areas went beyond the level of behaviour "expected" by a company (see examples below).

### Merowe Dam

ABB could justifiably assert that its power equipment supports economic and social development in the north of the country, and the provision of power supports human rights such as the right to health, education, housing etc. This was not enough to satisfy some NGOs who believe the dam to be inimical to the environment and the rights of local people, and called for the project to be suspended.

ABB offered support to the Merowe Dam Implementation Unit, the local authority dealing with the dam, in resolving re-settlement issues. In Spring 2006, as local tension mounted, there were reports of a government force or a pro-government militia shelling a meeting of the Amri people at a school, and three people were killed. ABB took the step of formally protesting against the incident in a letter to the Sudanese authorities and calling for a full and public inquiry. It also renewed an offer to help with training.

Examples of moving beyond "expected" behaviour:

- The Sudan Forum of May 2006 which led to the setting up of the local UN Global Compact network.
- The offer of training to the Merowe Dam Implementation Unit
- The letter of protest, coupled with an understanding of the potential consequences

### Heglig oil field

This one-off contract to supply flow control meters was designed to ensure safety. There is no evidence that revenues gained in the provision of this service were used to fund military conflict in Darfur.

### Darfur

The extensive discussions on the ground, which included external human rights experts, did not implicate the company. ABB was not present in that area and paid no taxes to the government. ABB representatives spoke openly to government representatives about the need to create the right conditions in Sudan for foreign companies to operate, and the potential damage of conflicts.

ABB is also aware that in certain circumstances a company can be confronted by "conflicting or competing rights." In the case of the Merowe Dam project, the supply of equipment to enable reliable

power transmission and distribution supported key human rights, as stated above, such as the rights to health, education and housing. On the other hand, dam projects invariably lead to the displacement of people and have an environmental impact.

### **Need for common framework**

At the start of 2007, ABB announced the suspension of new business activities in Sudan, adding Sudan to a list of countries where ABB does not take on new business activities.

ABB cited political, legislative and economic reasons for its decision, including pending federal legislation in the United States. The company said it had been monitoring political and economic developments for some time and would resume new business once it believed the conditions were appropriate. However, ABB is maintaining involvement in humanitarian projects in the country.

ABB has been working with other companies in the BLIHR group on a project - Good Governance in Sensitive Countries – to define a “common framework”, that is, the standards and behaviours that companies should observe while working in a sensitive country. Companies would benefit from such a “common framework” – recognized by strategic stakeholders including business, governments, NGOs, investors and legislators.

Some of the lessons from Sudan can be applied in other circumstances. The following is a summary of some of ABB’s key lessons from Sudan.

#### Identify human rights issues:

1. Identify the environmental and social issues at an early stage. What are the likely risks/benefits/opportunities? What opportunities exist to mitigate risk?
2. Identify non-financial factors in individual project risk reviews at a pre-tender stage.
3. Educate key decision-makers and sales managers about the unique challenges of each project.
4. Ensure that different parts of the business are working in tandem to support human rights.

#### Identify the company’s spheres of influence and responsibilities:

5. Does the company have a clear idea of its likely spheres of influence and environmental and social responsibilities in its involvement in a particular project?
6. The company needs to map and engage potential stakeholders at an early stage. These include:
  - a. Commercial partners, investors and supply chain
  - b. Communities and individuals directly and indirectly affected by the project, i.e. rights-holders
  - c. Relevant authorities of project and host country governance
  - d. NGOs, local and international
  - e. National and international specialist organisations
  - f. Employees

#### Identify actions to be taken:

7. Educate stakeholders about the potential benefits and responsibilities of a project.
8. Encourage clear and consistent internal and external communications.
9. Regularly review each project and assign an accountable supervisor.
10. Apply the lessons from previous similar issues.

### **Conclusion**

ABB invested a considerable amount of time and energy into the examination of its record in Sudan. This could not have been completed without the participation of senior management. Lessons learned from this experience are now being applied to future projects. ABB is working with other companies in the BLIHR group to design a “common framework” for the engagement of business in weak governance states. Agreement on “shared responsibilities” benefits all stakeholders including employees working and people living in sensitive countries.