

# Processes and Consequences in Business Ethical Dilemmas: The Oil Industry and Climate Change

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**ABSTRACT.** We present a model of rational behavior by which we characterize business ethical dilemmas as trade-offs between processes and consequences. As an illustration, we formulate the oil industry's business ethical dilemma as a trade-off between a socially detrimental process (emitting greenhouse gases, hence inducing a risk of climate change) and a self-interested consequence (profits). The proposed framework allows us to specify two types of strategies, differing by whether priority is given to the consequences or to the processes. We analyze and illustrate these strategies at both the behavioral and the discursive levels. In particular, communication strategies raise questions about good faith in business argumentation, in the sense that business discourse may or may not be consistent with actual assumptions and/or actual behaviors. We conclude on possible drivers of more ethical business behavior.

**KEY WORDS:** climate change, consequence, ethics, Kyoto Protocol, oil industry, process, rationality

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**ABBREVIATIONS:** IPCC – Intergovernmental Panel on Climate Change; API – American Petroleum Institute; GCC – Global Climate Coalition; UNFCCC – United Nations Framework Convention on Climate Change

*“In logic process and result are equivalent. (Hence the absence of surprise.)”*

*Ludwig Wittgenstein<sup>1</sup>*

*“Real sustainability is about simultaneously being profitable and responding to the reality and the concerns of the world in which you operate. We're not separate from the world. It is our world as well.”*

*John Browne, CEO of BP Amoco<sup>2</sup>*

## 1. Introduction

Tobacco has been linked to cancer. The burning of fossil fuels is harming the environment. What happens when corporate interests run counter to the social good? What can corporations do when their products are detrimental to society as a whole? How do they communicate about what they do, and why? How to assess business discourses in order to induce more ethical corporate behavior? We explore these questions by presenting a model of rational behavior and applying it to the case of the oil industry and climate change.

Our model allows for the characterization of business ethical dilemmas as a trade-off between procedural and consequential concerns. Here a rational behavior is neither formulated as the



maximization of an objective – unique or multiple – nor as the respect of a given principle. It is modeled as the combination of the calculation of an egoistic consequence with the subjective assessment of a value-loaded process. Such procedural values can be justified based on different grounds, e.g., altruistic consequences, deontological principles or intrinsic properties. As we will argue, the interpretation of procedural concerns always remains open. In other words, we are postulating that actors not only have preferences over consequences, but also over processes *per se*. We treat all business actors as motivated by the (quantitative) search for profits and endeavor to distinguish them (qualitatively) by the process implemented to make profits. In this manner, we embed economic rationality in a qualitative context. This allows to highlight the ethical trade-off faced by business actors in complex situations opposing business private interests and the common good. It helps in comparing actors of a given industry sector and in better decoding their discourses.

Climate change resulting from the enhanced greenhouse effect is amongst the most important global environmental threats today. It could lead to potentially dramatic impacts on human health, food availability and security, economic activity, water resources, and physical infrastructure. Much beyond today, climate change will deeply and irreversibly affect future generations. Despite remaining uncertainties, a large majority of scientists agree on the existence of a very serious risk (IPCC, 2001). A significant part of climate change is induced by the emission of so-called greenhouse gases resulting from the burning of fossil fuels. Notwithstanding this deplorable effect of its products, the oil industry is amongst the most profitable businesses today. Oil is at the core of our society in many respects: technological, economical, and political to name a few. We have come to a point where the way the oil industry behaves in the face of this dilemma may be determinant for the future of our society. By using the example of the oil industry and climate change, we show how processes and consequences help to characterize the different ways in which this industry communicates and behaves on the issue of climate change.

In the next section, we present our model and argue that climate change constitutes a business ethical dilemma for the oil industry. In section 3, we analyze business strategies towards ethical dilemmas, contrasting consequential strategies with procedural strategies. We illustrate our analysis with the case of two major oil corporations: ExxonMobil and BP Amoco. For both types of strategies, the risk is that business ethics remains only a discourse. This raises the question of good faith of business actors. In order to address this, in section 4 we take the analysis to the discursive level and explore the ethics of business discourses in the face of ethical dilemmas. Finally, we conclude by reflecting on possible tools and drivers to incite more ethical behavior by business.

## 2. The oil industry's climate change ethical dilemma

### 2.1. Processes and consequences to characterize ethical dilemmas

By formulating ethical dilemmas as trade-offs between processes and consequences, we want to reflect the specificity of the dilemma between economic interests and ethical values of business actors. This characterization of ethical dilemmas is intuitively expressed in the statement: “the end does not justify the means.” When means are valued independently of their consequences, i.e. as ends in themselves, rational behavior shall not be limited to the search of the best consequence. This has lead authors to argue for another type of rationality that would complement the standard consequential models of economic rationality. For instance, the idea that ethical values are intrinsic values over actions themselves – independently of their consequences – can be found in Wittgenstein:

It is clear, however, that ethics has nothing to do with punishment and reward in the usual sense of the terms. So our question about the *consequences* of an action must be unimportant. [. . .] There must indeed be some kind of ethical reward and ethical punishment, but they must reside in the action itself.<sup>3</sup>

A problem is that Wittgenstein believes that acknowledging intrinsic valuation for actions would undermine the formal validity of discourses. Thus, he eventually argues for not talking about them:

What we cannot speak about we must pass over in silence.<sup>4</sup>

As Russell nevertheless remarks, Wittgenstein “can manage to say a good deal about what cannot be said” (*ibid.*, p. xxi). Not having encountered the intuitive logic applying to the distinction between process and consequences does not mean that it should be abandoned. Indeed, authors have kept arguing for the relevance of intrinsic valuation of actions. For instance, in his outline of interpretive sociology, Weber distinguishes a type of “value-rationality” that goes beyond consequential rationality:

For, the more unconditionally the actor devotes himself to this value for his own sake, to pure sentiment or beauty, to absolute goodness or devotion to duty, the less is he influenced by the considerations of the consequences of his action. The orientation of action wholly to the rational achievement of ends without relation to fundamental values is, to be sure, essentially only a limiting case.<sup>5</sup>

In economics, Simon introduced the concept of procedural rationality and he did not justify it formally.<sup>6</sup> Later, Sen gave several arguments on the necessity to take better account of procedural values (e.g. 1987, 1995, 1997). He however did so by defining a concept of “comprehensive consequences” deemed to include values on how consequences are reached. His approach does not actually propose a specific and distinctive treatment of procedural values, and it weakens the formal properties of consequentialist models.<sup>7</sup> Along his work, Sen is explicitly calling for models that would combine processes and consequences more explicitly (e.g. 1995, pp. 12, 15). Although it has not yet reached a fully satisfying treatment, modeling procedural values as a distinctive factor beyond consequential values has been suggested in some exploratory works.<sup>8</sup> Such a model underlies the characterization of ethical

dilemmas proposed in this paper and is now introduced.

By acknowledging a procedural and a consequential dimension in any behavior, we can treat processes as the support of ethical values and consequences as the support of economic interests. Two limit cases emerge from such a postulate: one where procedural concerns are all neutral (pure consequentialism) and one where consequential concerns are all equivalent (pure proceduralism). Each of these two limiting cases is an ideal-type: in general, both the procedural and consequential dimensions are valued in practice. The issue is to distinguish them and we now argue that consequential models implicitly do it.

Consequential models reduce concerns to a single criterion in order to allow for quantitative measurement. Hence, consequential models abstract all properties that are irreducible to this criterion. As Sen explains (1986, p. 29):

Any principle of choice uses certain types of information and ignores others.

Thus, any consequentialist model implicitly leaves out properties that are not taken into account by its criterion. We call these properties “procedural”. By giving a name to what often remains unnamed, we make explicit that it is only through an additional assumption that procedural properties are not intrinsically valued. In theory, it is the process of abstraction that defines procedural concerns. In practice, it suffices to explicitly state a criterion: what is not in the consequentialist model, whatever it is, is procedural. Thus, procedural concerns are implicitly defined and only a discursive approach beyond the model can reveal them: their interpretation remains open. Moreover, absence of a common criterion to measure procedural concerns would force them to remain qualitative and relative. Since consequential concerns are quantitative, a combination of a qualitative and a quantitative scale would characterize the trade-off between procedural and consequential concerns. The trade-off between ethical values and economic rationality would be one between a quality and a quantity.<sup>9</sup>

Like the distinction between means and ends, the distinction between processes and conse-

quences is relative to a particular point of view and to the way consequences are defined in a particular context. This is often recalled to argue about the arbitrariness of the separation between processes and consequences. However, it would be irrational not to choose a behavior that is procedurally preferred *and* consequentially preferred. This form of optimality warrants that the model is not entirely arbitrary. Nevertheless, nothing guarantees that an optimal behavior is always available. Hence, *some* relativism may remain. Although this is precisely what is avoided in formal models, we believe it is an advantage because it reflects a partial indeterminacy of rational choice in some specific situations, precisely the ones where the best process does not lead to the best consequence. In these cases, that we call dilemmas, the model remains flexible as to whether the behavior favoring the consequence or the process is the rational one. This choice is relative to the ethical values of the actor: it remains under his/her responsibility.

We may further restrict this relativism by considering a class of actors (for instance one industry) and one type of quantitative consequences common for all actors within this class. In this manner, consequential concerns gain a sort of “objectivity” across actors and only procedural concerns remain relative. This is precisely what we do here by interpreting consequences as monetary gains, implicitly defining ethical concerns as any concern that is not economically self-profiting. Hence, the model treats all business actors as motivated by the quantitative search for profits and tries to distinguish them, qualitatively, by the process implemented to make this profit. In this interpretation, we use an egoist criterion for the consequential part of the model and all non-egoist motives are procedural values. When taking the point of view of the actor, even utilitarian values, which are consequential from the point of view of society, are treated as procedural values. But procedural values may also be of virtuous or deontological nature. As we have said, we do not need to define procedural values extensively and explicitly to assume that they may influence rational behavior beyond consequential values. The choice of the interpretation depends on the context at hand and may be judged by

the “deeper meaning” it provides.<sup>10</sup> In summary, we embed economic rationality in a qualitative context and distinguish actors according to what this consequential rationality misses: ethical values. We now present a case of application of this model, the oil industry and climate change.

## 2.2. *Where an environmental issue creates a business dilemma*

The earth’s climate is driven by a continuous flow of energy from the sun. This energy is sent back to space in the form of infrared radiation, although part of it is trapped in the atmosphere by so-called greenhouse gases (H<sub>2</sub>O, CO<sub>2</sub>, CH<sub>4</sub>, N<sub>2</sub>O, HFC, CFC, . . .). Concentrations of most of those gases in the earth’s atmosphere are rising as a consequence of human activity. This raises the risk of global warming of the earth surface temperature and of significant sea level rises and climatic changes.

Among greenhouse gases, carbon dioxide (CO<sub>2</sub>) emissions resulting from the burning of fossil fuels – coal, oil and gas – are pointed to as the main cause of human induced climate change. The oil industry is thus confronting a major issue: its core product, oil as an energy source, is potentially highly damaging to the global environment.

If greenhouse gases emissions alter the world’s climate, and if we want to avoid or limit climate change, we have to reduce our net emissions of those gases. As a first political answer, the nations of the world have signed and ratified the 1992 United Nations Framework Convention on Climate Change (UNFCCC), which provides a diplomatic framework to address the issue, both at the preventive and at the adaptive levels. The “*ultimate objective*” of the Convention is “*the stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system*” (UNFCCC, 1992, Article 2). At the time, developed countries agreed to the aim of returning to their 1990 emission levels of carbon dioxide and other greenhouse gases by the year 2000 (*ibid.*, Article 4.2 (b)), but this commitment was in no way legally binding, and most nations

have not reached this goal. In 1994–1997, the objective of the international climate change negotiations was to reinforce developed countries' action through the definition of legally binding commitments of reduction or limitation of greenhouse gas emissions.

The Kyoto Protocol was adopted in late 1997. It contains legally binding emissions limitation or reduction commitments by industrialized countries for the period 2008–2012 as compared to 1990 levels. The Protocol has not yet entered into force, since this is conditioned on ratification of the text by at least 55 Parties, incorporating developed countries (so-called Annex 1 Parties) which in total accounted for 55% of total Annex 1 countries CO<sub>2</sub> emissions in 1990.<sup>11</sup> Ratification by the U.S. (36% of Annex 1 1990 CO<sub>2</sub> emissions) has become hopeless since March 2001 when President G. W. Bush officially announced his opposition to the Kyoto Protocol, calling it an “*unfair and ineffective means of addressing global climate change concerns*”<sup>12</sup> and stepped back from the negotiation process.<sup>13</sup> The new U.S. position raised much criticism from all parts of the world, including from traditional U.S. allies in the climate negotiations such as Canada, Japan and Russia. The European Union has committed to go ahead and ratified the protocol on May 31st, 2002. Japan did the same a few days later, while the Russian government decided in April 2002 to begin the ratification process.

If the Protocol enters into force, the pressure on the oil industry will be tremendous. Directly, oil corporations will be asked to reduce their own emissions of greenhouse gases: emissions relating to their industrial processes – extraction, refining, distribution. Indirectly, a shift towards technologies consuming less or no fossil fuels will take place. This will greatly affect the oil market. Notwithstanding, the fact that the issue has been recognized as very serious by governments, civil society actors, increasing numbers among the public, as well as many in the business community, has created a situation of pressure for the oil industry. This pressure is not simply of regulatory nature. If climate change policies were already translated into regulatory constraints, the problem for the oil industry would be one of regulatory compliance. Whereas the issues here

concern the industry's strategies in the absence of laws, and industry's strategies towards the development or the mitigation of regulation. These issues raise a dilemma to the business actors and we shall now try to make it explicit.

Schematically, the “*oil industry's climate change ethical dilemma*” can be characterized as a dilemma between the search for a profitable oil industry and the fact that CO<sub>2</sub> emissions induce climatic changes that are potentially highly detrimental to society.<sup>14</sup> More precisely, emitting CO<sub>2</sub> is an unwanted and inescapable side effect of the process that leads to a profitable oil industry. From the point of view of the oil industry, the constraining of CO<sub>2</sub> emissions is primarily considered through its negative impact on profits. From a societal point of view, it can be considered in terms of reduction or suppression of an environmental risk that will induce bad consequences for society. The actor faces the choice between (1) an ethical process that leads to a costly consequence and (2) an unethical process that leads to a profitable consequence.<sup>15</sup> The ethical process here is the one where CO<sub>2</sub> emissions are constrained, and the costly consequence is less profit. While the unethical process corresponds to unconstrained CO<sub>2</sub> emissions and the profitable consequence is making more profit (Figure 1).

What do corporations do when they face such a business ethical dilemma? Can the model that we have presented help us to understand their strategies? Can processes and consequences help us in distinguishing among their behaviors? These questions are discussed in the following section.

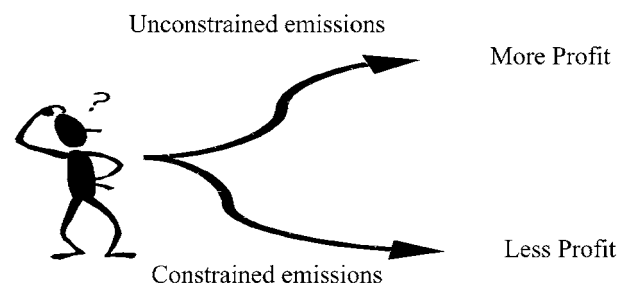


Figure 1. The oil industry's climate change ethical dilemma

### 3. Business strategies toward ethical dilemmas

In the face of a business ethical dilemma, as modeled in this paper, we expect actors to act differently depending on whether they intend to give priority to the consequential dimension or to the procedural dimension. We therefore attempt to differentiate behaviors accordingly. On one hand, there are business behaviors that favor their self-interest over social responsibility (consequential strategy) and business behaviors that sacrifice some economic interest for ethical considerations (procedural strategy).

An actor who gives priority to the consequential dimension is likely to weaken the reasons to consider his/her process as detrimental to society and at the same time to strengthen the negative impacts of alternative processes to justify his/her venal strategy. An actor giving priority to the procedural dimension is likely to strengthen the reasons to adopt an alternative process less detrimental to society while exploring potential supplementary profits that would reduce the sacrificial character of his/her intended behavior. We expect the actor to act on these consequences so as to transform the dilemma into an optimal situation. In both cases, the actor is trying to escape his/her dilemma.

Let us further illustrate and analyze these two strategies by returning to the oil industry's ethical dilemma and examining two very different types of strategies, which have been chosen by two major oil corporations – ExxonMobil and BP Amoco.

#### 3.1. Priority on consequences

Exxon – and later the merged ExxonMobil – adopted a consequential strategy toward climate change.<sup>16</sup> Its strategy of preventing political action that would constrain CO<sub>2</sub> emissions was chiefly implemented through efforts in denying the existence of a problem. In the early days of the debate, Exxon was mainly contesting the science of climate change, based on its complexity and associated uncertainties. In this manner, it was contesting that the CO<sub>2</sub> emissions from its

products and industrial processes were having a detrimental impact on climate. In 1998, Exxon's website read: "*At this time, models used to predict global climate change are incomplete, and the issue continues to be a matter of scientific debate. It appears that climate variability is still too large and too complex a subject for current measurements and projections to be able to determine whether reliable links exist between human activity and future global warming.*" Exxon's objective was to convince the public and policy-makers, mainly in the U.S.A., that human-induced climate change was not an issue requiring mandatory restrictions on greenhouse gases emissions. As time went by, efforts were also directed at addressing the economic impacts of the policy proposals under examination, which were portrayed by ExxonMobil as unacceptably costly and threatening to the U.S. and the world economies. The uncertain science was deemed insufficient to justify the supposedly certain and massive economic costs that would ensue. In parallel, came more and more arguments against the founding principles of the Kyoto Protocol that ExxonMobil believes are fundamentally flawed.

For the actor who intends to behave with his/her focus solely on consequences, a typical attitude in the face of an ethical dilemma is thus to downplay the socially detrimental character of the process. As shown by the example, this is carried out by first denying the problem itself. When societal acknowledgement of the problem grows, the actor denies that it is the business process that generates the problem. The causality between the business process and its unintended social consequences is questioned: "*there is no proof that we are causing a problem*". If it turns out that the causality becomes proved or admitted within society, the actor argues that the current process is legal: "*we have the right to do so*". Since legal constraints are often local, pointing at others outside the local jurisdiction can reinforce such strategy: "*others do it too and it would be unfair to change the rules for us and not for them*". This is exemplified by the following statement by an Exxon Mobil executive: "*If burning fossil fuels proves to be a significant factor in global climate change, then excluding developing nations from the [Kyoto] agreement raises the question of whether or*

not it is fair – and more important, whether or not it will work.<sup>17</sup> (. . .) Because they would be exempted from requirements to cut carbon dioxide emissions, developing nations may attract more industry and jobs from industrialized countries that do restrict fossil fuel consumption. That means fewer jobs in countries that do impose such limits” (Flannery, 1999, p. 8).

One notes that this sequence of positions eventually acknowledges the procedural dimension, hence the ethical dilemma. At this stage, the actors intending to give priority to consequences will endeavor to weaken the socially beneficial character of an alternative process. This can be carried by first denying its feasibility. The burden to prove such feasibility then falls upon society. Once – and if – shown feasible, the alternative process is questioned with regards to its beneficial character to society: “a change of process will not solve the problem”.

This argumentation on the procedural dimension is reinforced by an argumentation on the consequential dimension. Says Flannery from ExxonMobil: “To reach the [Kyoto reduction] target, the United States would have to stop all driving, or close all electric power plants or shut down every industry, or reduce emissions in each area by one third” (Flannery, 1999, p. 7). The main idea is to ascertain the negative business and social consequences of the alternative process: “it would be too costly to do otherwise”. At this stage, the argument is that the social benefits of the alternative process do not compensate for the costs: “it is not worth it”. Another illustration is the following statement by ExxonMobil CEO Lee Raymond: “Although the science of climate change is uncertain, there is no doubt about the considerable economic harm to society that would result from reducing fuel availability to consumers by adopting the Kyoto Protocol or other mandatory measures that would significantly increase the cost of energy. Most economists tell us that such a step would damage our economy and almost certainly require large increases in taxes on gas and oil. It could also entail enormous transfers of wealth to other countries” (ExxonMobil, 2001). Moreover, arguments are used to indicate that a change of process is detrimental to society in other regards: “It will be the source of other problems”: “Although it is hard to predict what the weather is going to be this weekend,

we know with certainty that climate change policies, unless properly formulated will restrict life itself” (ExxonMobil, 2000).

Direct critics on the legitimacy of imposing a change of process have been supplementing these arguments. In particular ExxonMobil questioned the legitimacy of the conclusions of the Intergovernmental Panel on Climate Change (IPCC), an international panel of some 2500 scientists which is the main scientific driver of international negotiations on climate change. IPCC has been working on the issue since its 1988 creation by the United Nations and the World Meteorological Organization and is now affirmative on the existence of global warming and of the associated risks.<sup>18</sup> But to Exxon Mobil: “[T]he executive summary of the [1995 IPCC second assessment] report, the part most people read, was heavily influenced by government officials and others who are not scientists. The summary, which was not peer-reviewed, states that: “the balance of evidence suggests a discernible human influence on climate.” You’ll note that this is a very carefully worded statement, recognizing that the jury is still out, especially on any quantifiable connection to human actions. The conclusion does not refer to global warming from increases in greenhouse gases. Indeed, many scientists say that a great deal of uncertainty still needs to be resolved” (Flannery, 1999, pp. 5–6). The arguments here are aimed at individuals or institutions: “you have no right to impose something like this on us”. At a more general level, it is the legitimacy of the other actors (and in particular government) that is questioned: “we do not recognize your legitimacy”.

Similarly, Exxon attacks the legitimacy of international efforts to address climate change under the 1992 UN Framework Convention on Climate Change as a flawed and inequitable diplomatic process. In 1997, Exxon sponsored advertising campaigns in the U.S. on the theme: “The UN global climate treaty isn’t global and it won’t work”. One of the ads read: “The United Nations is negotiating a climate treaty that will require severe restrictions on the amount of energy we use. And it puts the entire burden on the U.S. and a few other countries.” And further: “Most countries are exempt. Americans will pay more for everything that requires energy to transport or manufacture, while 132 of 166

*countries, including India, China, and Mexico are exempt.*"<sup>19</sup>

To sum up, the core arguments of ExxonMobil can be summarized by the following progression of statements: climate change is not happening; the science of climate change is uncertain; climate change is not human-induced; climate change will not necessarily be bad; now is not the good time to act on climate change; the policies under discussion (at national and international levels) are not the good way to tackle with the issue. Not all arguments have been put forward at the same time, as the latter imply implicit recognition of a problem.<sup>20</sup>

The progression of the arguments justifying the priority given to consequences in a business ethical dilemma ends up in the adoption or reinforcement of a controversial attitude toward society at large. This reflects a form of competition between business and society that directly stems from the opposition of procedural and consequential judgements, the former reflecting the interests of society and the latter the ones of business. Consider for example the war-like vocabulary of this memo from the American Petroleum Institute:<sup>21</sup> *"Unless climate change becomes a non-issue, meaning that the Kyoto proposal is defeated and there are no further initiatives to thwart the threat of climate change, there may be no moment when we can declare victory for our efforts"*.<sup>22</sup> In our model, these socially competitive attitudes are characterized by a weakening of the judgement comparing processes and a strengthening of the judgement comparing consequences.

### 3.2. Priority on processes

An actor who intends to place priority on processes is likely to strengthen procedural judgements while weakening the impact on consequences. To this aim, the ethical dilemma must be acknowledged. As a first step, the concerns of society may be recognized: *"society cares"*. This may happen even before the detrimental character of the process is widely accepted. The next step constitutes the real commitment because it is an acknowledgement of responsibility: *"we are causing social damage"*. It may be a while until a

business actor reaches this stage because recognizing responsibility makes it very difficult – although not impossible – not to do something about it. Therefore, business actors are not likely to acknowledge their social responsibility before they are ready to act upon it.

In the case of climate change, BP – later BP Amoco – provides an example of this strategy. At first, BP's strategy regarding climate change did not differ significantly from that of all the other major oil corporations. As a member of both the Global Climate Coalition (GCC) and the American Petroleum Institute (API), BP was participating to the efforts of these groups to deny the existence of the problem, to influence public opinion, and to prevent any political action on the issue. A few months before the Kyoto Conference, BP operated a radical shift and announced a strategy that is based on recognition of the scientific assessment of the existence of a serious risk of human induced climate change by the Intergovernmental Panel on Climate Change. As BP CEO John Browne put it: *"[T]here is now an effective consensus among the world's leading scientists and serious and well-informed people outside the scientific community that there is a discernible human influence on the climate, and a link between the concentration of carbon dioxide and the increase in temperature"* (Browne, 1997). However, he also pointed to the remaining *"large elements of uncertainties"*. From this premise, he proposed a conclusion that action was needed, which was rooted in the "precautionary principle": *"The time to consider the policy dimensions of climate change is not when the link between greenhouse gases and climate change is conclusively proven but when the possibility cannot be discounted and is taken seriously by the society of which we are part"* (ibid.). The framework in which he placed his analysis is the recognition of a need for *"a re-thinking of corporate responsibility."* BP became a member of the Pew Center on Global Climate Change's Business Environmental Leadership Council, a coalition of companies who agree that *"Businesses can and should take concrete steps now in the U.S. and abroad to assess opportunities for emission reductions, establish and meet emission reduction objectives, and invest in new, more efficient products, practices and technologies."*<sup>23</sup> BP progressively made public a



multi-action plan on climate change based on increased research and development (in particular into renewable energy and other clean technologies), addressing BP's own emissions, and developing the solar energy business. BP is also participating actively and co-operatively to policy debates on climate change, at international and national levels.

Being ready to be proactive by accepting a change of process may further depend on the expectations on consequences. If the business consequences of the alternative process are, by construction of the dilemma, worse than the business consequences of the detrimental process, they are also less known. Paying attention to the alternative process then becomes a learning process for the actor. By encouraging the study of new processes, the actor constructs a new representation of the problem. By itself, the constructive character of such a dynamic process may appear as a justification to the claim that "*new opportunities will appear*". We see at least two ways to modify the framing of negative consequences. First, the actor may enlarge the scope of his/her business activity so as to appropriate positive consequences that were lying outside its previous scope: "*our role will change*". This is what BP Amoco does when they advertise on the theme "*Beyond Petroleum*".<sup>24</sup> Second, the actor may extend the horizon of its activity: "*we are thinking long term*". For instance, BP's John Browne addresses his shareholders in those terms: "*As well as helping the world change its fuel mix in favor of natural gas, we're already looking ahead and preparing for the next shift – developing the technology of solar power and hydrogen. The shift will take a very long time. Neither solar or hydrogen fuel cells are yet commercially viable. But we're making long term commercial investments in those technologies now, in the belief that over time new sources of energy will make a significant contribution to the world's energy needs. That is investment for the medium and long-term future*" (Browne, 2001).<sup>25</sup> In both cases, the ethical tension between social and business interests eases by weakening the importance of negative consequences and emphasizing other potentially positive consequences.

In a very schematic manner, a business actor who faces an ethical dilemma and intends to give

priority to processes ends up arguing something like "*I recognize your concerns, I will modify my behavior, and will nevertheless be profitable*". It thus corresponds to a co-operative approach towards those actors who represent society – policy-makers, NGOs, the public, . . . The priority given to the process replaces the closed logic of opposition by a logic of cooperation that may translate into more participatory processes. Instead of being attacked for their lack of legitimacy, societal actors become invited to the construction of the relationship between business and society.

However, such constructive strategies remain under close scrutiny of societal actors who will require those who claim to adopt these strategies to provide some tangible proof of good faith. We now examine in more details the question of good faith, which, as we shall see, appears in any case – whether the actor places priority on consequences or on processes – albeit in different manners.

#### 4. Business argumentation and good faith

On the one hand, there are actors who justify their priority on consequences by arguing that their process is not socially detrimental. On the other hand, there are actors who justify their priority on processes by arguing that they are responsible and listening to social concerns and can maintain their profits.

How can those two types of discourses be decoded? In the consequential strategy, does the actor really think that the incriminated process is not detrimental to society or does he/she use such justification in bad faith, as a strategic means for the attainment of his/her individual goals – in this case maintaining a certain level of profits? Does ExxonMobil really assume that emitting CO<sub>2</sub> is not detrimental to society, or do they say so because they think they can make more profits by saying so? In the procedural case, does the actor really act because he/she wants to be socially responsible or simply because he/she anticipates better business consequences from adopting a socially responsible discourse and/or an alternative business process? Do the people at

BP Amoco want it to become a “green company” because they want to participate to the common environmental and societal good or is it simply because they expect more profits by doing so? And will BP Amoco really shift to new ways and processes? These questions – Isn’t this bad faith? Is this really good faith? – are of discursive nature and pertain to the good faith of business argumentation. Therefore, we now leave the behavioral level and take our analysis to the discursive level.<sup>26</sup>

#### 4.1. *Could it be bad faith?*

The strategy of ExxonMobil is consistent with the strategy of an actor who would be in bad faith. They acted as if they identified the dilemma early but covertly, promptly evaluated the risk to their profits, and designed a strategy toward society to limit as much as possible constraints on their business processes. Says ExxonMobil’s Science Strategy and Programs Manager for the Safety, Health and Environment Division Brian Flannery: “*In 1980 we started thinking about climate change as a potentially important issue. This in the context of major long-term investment projects. It held business meaning in the context of a regulatory risk, which is driven by public policy.*”<sup>27</sup>

However, because of its embedding in society, an actor who intends to give priority to the consequences cannot simply say: “*we are implementing a process detrimental to society but we won’t change it because we make a lot of profit out of it*”. Even though the role of business is to engage in profitable activities and even though in reality, it may engage in profitable activities that are detrimental to society, it is not socially acceptable to communicate so straightforwardly about it in these cases. We are indeed not aware of cases of voluntary statement of unethical profits: in the eminently social domain of discourse, the justification by pure self-interest is socially controversial. Hence, an actor giving priority to consequences has an incentive to provide justifications that are not consistent with his/her real acknowledgment of the dilemma at hand. Typically, he/she is likely to deny that there is a

problem while in reality, he/she knows that there is one but merely wants to limit the impact on his/her self-interest by gaining time.

Beyond the ethical dilemma created by the socially detrimental character of a business process, there is therefore, another ethical question proper to the attitude of business actors who act in bad faith. It is one thing to give priority to consequences over processes in the face of an ethical dilemma – and our model does not treat such behavior as irrational – it is another thing to prevent such dilemma to be manifest, acknowledged, and acted upon. In the first case, the behavior is justified by the role of the actor understood in a restricted consequentialist way – business must make profit. In the second case, the attitude cannot be justified and reflects an instrumentalization of society to the pursuit of profits.

To further illustrate this point, the situation examined in this paper can be compared to the one faced by the tobacco industry. Not only do the dangers of tobacco raise a business ethical dilemma – constraining a very profitable business activity considering the negative health effects of tobacco – but also the very strategy of the tobacco industry has raised ethical issues beyond this dilemma. In the case of tobacco companies, the bad faith has been uncovered through the release of internal and confidential documents of the companies during the various trials. These documents were analyzed, notably by the World Health Organization and non-governmental organizations. Examples of influence – or even manipulation – of public opinion, subversion of political bodies and distortion of scientific evidence are now clearly documented to have taken place (see for instance the landmark report by Zeltner et al., 2000). Going back to climate change, although we have suspicion, we do not have similar evidence that some oil corporations were fully in bad faith. It is likely that a public release of company documents would help to determine whether ExxonMobil acted in good faith, but nothing resembling the trial of tobacco companies has ever taken place concerning the impacts of fossil fuels on climate change and the strategies of oil companies. Moreover, it seems that some company documents are regularly

removed from their website when becoming too blatantly contradictory with the newly adopted positions.

#### 4.2. *Is this really good faith?*

The question of good faith must also be raised for actors who say they intend to modify their business process. Brian Flannery of ExxonMobil, discussing the actions of some competitors – BP and Shell in particular – notes that some significant actions taken had little or nothing to do with climate change but were already in the pipeline for other reasons. He asks, “*Is this good public relations? Is this good ethical business?*”<sup>28</sup> Flannery also expresses doubts regarding the depth of his competitors’ commitment to emissions reductions: “*We will be watching our competitors to see as a result of their commitments and procedures whether, on the one hand, they forgo an economically attractive project that would significantly increase their emissions or whether they make a large investment that is un-economic to reduce their emissions. So far we have not seen sufficient examples of those outcomes.*”<sup>29</sup>

Other critics remain skeptical and also interpret BP Amoco’s strategy as a pure communication and public relations strategy, devoid of substantial and concrete commitment. Not surprisingly, many environmental NGOs point to a contradiction between BP Amoco’s rhetoric and the reality of their actions. Says Kirsty Hamilton, Climate Campaigner with Greenpeace International: “*There is a discrepancy between the discourse and actions of oil companies, in different areas. First, investments: compare an investment of \$20 million per year in solar energy to over \$4 billion in exploration and production expenditures in 1998. Second, advocacy: it is now considered good marketing practice to show a green face, and also good lobbying practice. And third, advertising: they advertise being green, and at the same time join [anti-action] lobby groups.*”<sup>30</sup> While William O’Keefe, former vice-president of API and chairman of the GCC, underlines his understanding of the nature of BP Amoco’s strategy: “*Doing this move, [Browne] created an image of BP that differentiated it from its competitors, and this was good marketing (. . .) But*

*if you look at what they are doing, apart from BP’s internal emissions trading scheme, there is no significant difference between what ExxonMobil and what BP Amoco are doing, in terms of money invested, research, etc.*”<sup>31</sup> Another reason for caution on BP Amoco’s strategy is the fact that the company continued its contribution to the U.S. political process after 1997, albeit in smaller amounts.<sup>32</sup>

Clearly, an actor who claims to be socially responsible expects gains in terms of reputation and public recognition from his/her discourse. By not rejecting the social concerns and entering into a co-operative relation with society, he/she also may increase his/her power to influence societal concerns. In this sense, the gain is mainly procedural. As said above by B. Flannery, no company has clearly incurred costs because of its strategy and a lot has remained at the level of discourses. Because of this, the question of whether social concerns are the real motivation to act for companies such as BP Amoco cannot yet be answered. We must wait for them to incur costs that they would not incur if they were in bad faith. This is not to say that it is either necessary or desirable that ethical companies incur costs just to demonstrate ethical concerns. It means that – in those situations – ethical behavior is unambiguously demonstrable only when leading to a sacrifice of economic consequences. However, the most desirable situations, both for society and business, are those in which it is more profitable for business to be ethical.

If the actor takes the socially responsible position in bad faith, he/she cannot ignore the possibility that society will notice it. Moreover, a co-operative attitude towards society may provide for more opportunities to gauge the consistency between behavior and communication – whether “they walk by their talk”. If not, the actor would lose all the benefits of his/her position because it would not have secured the attainment of the most profitable consequence. Hence, an open and co-operative attitude towards society is more risky for an actor in bad faith and it might be his/her interest to maintain an adversarial stance if he/she does not really intend to modify his/her process. Furthermore, the willingness of business actors to let society observe what they do so as to compare it with

their discourse is an indication of good faith. In itself, it is an indication of a desire to build a trustful relationship with society, although no definite proof.

Our analysis thus distinguishes between two different types of good faith for the two types of strategies respectively. Addressing the ethical dilemma with the intention of maintaining a *status quo* on the process so as to reach the most profitable consequence involves mainly communication and lobbying actions. The question of good faith is thus raised at the level of the consistency between what one says and what one assumes is true. On the other hand, placing priority on processes and risking missing the most profitable consequences involves internal efforts to change the corporation's way of framing the issue and of doing business, hence actions that go beyond communication and lobbying. The question of good faith is then raised at the level of the consistency between what one says and one what does.

## 5. Conclusion

Through the case of the oil industry and climate change, we explored how a model that distinguishes between processes and consequences may be used to better understand how business faces ethical dilemmas at the behavioral and discursive levels. Such understanding can also be useful to societal actors who are striving to assess corporate behavior – e.g., policy makers, civil society and the general public. Moreover, the analysis of the consistency between what companies assume, say, and do may be of help to those aiming at increasing the effectiveness of the societal framing of business activities and at inciting business actors to behave more ethically – or, in other words, to develop and enact their corporate social responsibility.

Typically, examination and exposition of business behavior and obligations to increase transparency of business actions can produce incentives for actual behaviors to be more consistent with communication strategies, thus favoring ethical conducts. For instance indepen-

dently audited corporate social reports allow for comparison between discourses and acts, and the public reporting of inconsistencies may provide a lever to induce more consistency (the “name-and-shame” influence strategies used by some NGOs). Further, corporate accountability forces corporations to live up to their promises and strengthens the link between transparency and responsibility. Of different kind, obligations regarding document disclosure and archiving constitute effective means to incite business actors to act in good faith. The development of product liability is another powerful tool in this direction. Regulations that place the burden of proof on business rather than on authorities can also be seen as promising. Such regulations force business actors to endorse their responsibility and to demonstrate their good faith from the start, as opposed to situations where business only needs to react to accusations of misbehavior voiced by societal actors, in which case denial stances are easier to organize and sustain.<sup>33</sup>

Beyond direct framing of business activities to encourage more ethical action, we have seen that another important driver of change lies in the re-framing of the dilemma itself. This can be driven by actions exogenous to business. Public actions can be taken to increase the business costs associated with undesired societal consequences – e.g. by mandating internalization of environmental or social costs – and/or to reduce the business costs associated with implementing processes that are less damaging to society – e.g. by subsidizing the development of alternative processes. But, such re-framing might also be endogenously driven. As we have seen in the paper, focus on alternative and less socially detrimental processes can initiate a dynamic learning process for the business actors. This potentially leads to the enlargement of the scope and/or the time horizon of the business activities, hence, departing from the consequential assessment prevalently held by the industry, and allowing to emphasize new positive consequences. Such learning and differential positioning process may induced business actors to consider ethics as a potential driver of competitive advantage. In this manner, proactive business strategies may trigger

a positive feedback loop that can lead to innovative, competitive and more socially responsible business practices.

## Notes

<sup>1</sup> Wittgenstein (1974, 6.1261, p. 64).

<sup>2</sup> Browne (1997, p. 8).

<sup>3</sup> Wittgenstein (1974, 6.422, p. 72, emphasis in the original).

<sup>4</sup> Ibid. (7, p. 74).

<sup>5</sup> Max Weber (1978, p. 26). Consequential rationality is termed "instrumental rationality." For a sociological argument on this distinction, see for instance Boudon (1996, 1998). Granovetter (1985) is a seminal contribution to this combination of economic rationality with other forms of values.

<sup>6</sup> See Simon (1976, 1978). For Simon, procedural rationality is mostly empirically grounded (see also Rubinstein, 1998, chapter 11).

<sup>7</sup> In Sen, preferences over "comprehensive consequences" are formally incomplete and mix consequential and procedural values indistinctly (see e.g. 1997).

<sup>8</sup> See Le Menestrel (1999, 2001). For a discussion of formalism versus interpretation in utility theory, see Le Menestrel and Van Wassenhove (2001). On the empirical evidence for process utility, see e.g. Shafir and Tversky (1992), Donaldson and Shackley (1997), Frey and Stutzer (2000). For an economist approach to these two types of values, see Frey (1997). For a philosophical approach to consequentialism, see Scheffler (1988). For an argument that quantitative models of rational behavior impose consequentialism and exclude procedural values (called process utility), see Harsanyi (1993).

<sup>9</sup> We thus do not have two criteria but one and its "complement", leading to a dependency between the two types of concerns that is reflected by the conjunction of a quantitative and a qualitative scale. This would mean that processes and consequences are not like two dimensions of a multiple objective function and that some indeterminacy necessarily remains (see Le Menestrel and Van Wassenhove, 2002) For a combination of a quantitative (cardinal) scale with a qualitative (ordinal) scale, see Le Menestrel (2001).

<sup>10</sup> The expression is from Sudhir and Murthy (2001).

<sup>11</sup> For a complete analysis of the international response to climate change and of the Kyoto Protocol, see Grubb et al. (1999). Detailed description of the latest negotiation sessions can be found on the

International Institute for Sustainable Development Website at: <http://www.iisd.ca/climate/index.html>.

<sup>12</sup> Letter from President Bush to Senators Hagel, Helms, Craig and Roberts, March 13, 2001.

<sup>13</sup> In the absence of the United States, the Kyoto Protocol can only enter into force if ratified by the European Union and its Member States, Russia, Japan and either Canada or Poland.

<sup>14</sup> Our procedural interpretation is here of utilitarian nature.

<sup>15</sup> As evoked, there exist the two other cases: one where an ethical process leads to a profitable consequence (optimality), and one where an unethical process leads to a costly consequence (irrationality). In both those cases however there is no ethical dilemma. A more detailed discussion, including the one pertaining to the ambiguity of ethical and profitable behavior (see also section 4 below) can be found in Le Menestrel (2002).

<sup>16</sup> See van den Hove et al. (2001, 2002) for a more complete presentation of BP Amoco and ExxonMobil climate change strategies and of the role of the GCC and API. See also Kolk and Levy (2001) and Rowlands (2000).

<sup>17</sup> Note the acknowledgment that (consequential) efficiency is "more important" than (procedural) fairness.

<sup>18</sup> In its 2001 Third Assessment Report, the IPCC concluded in particular that: "An increasing body of observations gives a collective picture of a warming world and other changes in the climate system" and that "There is new and stronger evidence that most of the warming observed over the last 50 years is attributable to human activities" (Houghton et al., 2001).

<sup>19</sup> Exxon sponsored this campaign through its board membership in the Global Climate Coalition (GCC), one of the most influential U.S. lobbying front group on the climate issue. A copy of this add can be found in Hamilton (1998, p. 32).

<sup>20</sup> While this paper was being revised, a new shift occurred in the public position of ExxonMobil: at its May 2002 annual shareholders meeting, faced with a 20.3 percent shareholder resolution calling for the promotion and development of renewable energy sources, ExxonMobil's CEO acknowledged that there is a risk of human induced climate change that "may be significant", although he insisted that "there continues to be substantial and well-documented gaps in climate science" (Sechler, 2002).

<sup>21</sup> Among the most influential U.S. lobbying front groups on the climate issue.

<sup>22</sup> This quote is extracted from an API internal

memo leaked to the New York Times in April 1998. See Cushman (1998); text available at: <http://www.corpwatch.org/trac/feature/climate/culprits/bigoil.html>, accessed January 2001.

<sup>23</sup> Excerpt from the Pew Center on Global Climate Change Website: <http://www.pewclimate.org/belc/index.cfm>, accessed February 2001.

<sup>24</sup> See advertisement campaign in support of BP Amoco's change of logo in 2000; e.g. an add in International Herald Tribune, November 15, 2000 that read: "Beyond . . . means starting a journey that will take a world's expectations of energy beyond what anyone can see today." See also Corzine (2000). Note the procedural argumentation (i.e. "journey").

<sup>25</sup> Another example is given by the following statement of Shell's CEO: "*If a business, and particularly an energy business, does not build realistic, carefully costed and commercially viable strategies for climate care into its overall strategies, it will not remain a sound business in the long-term*" (Moody-Stuart, 2000). Shell has opted for a climate change strategy very similar to that of BP Amoco.

<sup>26</sup> Our discussion on the consistency between assumptions, discourses and acts is inspired from Habermas (see e.g. 1992).

<sup>27</sup> Interview with Dr. Brian Flannery, The Hague, November 2000.

<sup>28</sup> Interview with Dr. Brian Flannery, The Hague, November 2000.

<sup>29</sup> Brian Flannery, cited in (Topping, 2001).

<sup>30</sup> Interview with Mrs. Kirsty Hamilton, The Hague, November 2000. As of today, BP America is still a member of the API. Details of sources for the quoted figures are given in Hamilton (1998, p. 30).

<sup>31</sup> Interview with Mr. William O'Keefe, January 2001.

<sup>32</sup> See Exhibit B-1 of (van den Hove et al., 2001a). BP has prohibited the API from using BP membership funds for anti-climate work (Source: ICCR 2000). In a recent development, BP's CEO announced that the company would to end all its political donations world-wide: "*We must be particularly careful about the political process because the legitimacy of that process is crucial both for society and for us, a company working in that society. That is why we've decided, as a global policy, that from now on we will make no political contributions from corporate funds anywhere in the world. We'll engage in the policy debate, stating our views and encouraging the development of ideas, but we won't fund any political activity or any political party*" (cited in: Macalister and White, 2002).

<sup>33</sup> An example of such reversal of the burden of proof is the EU chemical policy that is presently being

developed. Under the proposed regulation, it will be up to the chemical industry to demonstrate the possibility of safe use of a chemical in order to put or maintain it on the market, and not to the authorities to prove that a chemical is toxic to human health and/or to the environment to remove it from the market (see: European Commission 2001). And in the case of genetically modified organisms, we posit that the relation between business and society would be significantly different if business actors were to prove that GMOs are inoffensive, and if they were truly accountable to this.

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