



Green 8 Position Paper on Corporate Social Responsibility & The EU Multi-Stakeholder Forum Process



I. Corporate Accountability & Corporate Social Responsibility

Corporate accountability and liability



The scale and influence of companies, in particular of Transnational Corporations (TNCs), has grown significantly, particularly over the last 20 years. TNCs benefit from a global market for the development of their business but are not held globally accountable for the negative impacts of their operations. States are ultimately responsible for public welfare, and must ensure that TNCs, as well as domestic enterprises (including SMEs), can be held accountable to the communities they affect; through legally binding rules of accountability and liability – on global, European, national and local level. Binding legal measures would be most effective in establishing a general incentive for responsible corporate behaviour. Such measures would also include: rights for members of the public as well as workers to challenge business practices and win remedy and redress for any damage caused, and duties on companies and their directors. It would guarantee reporting, monitoring, verification of consistent corporate behaviour and sanctioning of irresponsible practices. Such binding rules are in the interest of socially and environmentally responsible companies as they establish a level playing field. Over the last decade, and in particular the last few years, corporate accountability (CA) has been a subject of concern and a key demand in the pursuit of sustainable development by the large majority of NGOs campaigning on issues including human rights, environment, development and labour. (1)



Corporate social responsibility

Corporate Social Responsibility (CSR) on the other hand is the government and business community's response to this public pressure. The Green 8 insist on the clear differentiation between the two concepts - corporate accountability and corporate social responsibility. Up to now, there is still no agreement on a clear definition of CSR. The conservative parts of the business community argue that it should be limited to consideration of 'voluntary' business activities 'beyond compliance' with legal baselines and charity; while its more progressive members accept a broader starting point based on the total impacts of their 'core' business on workers, communities and the environment. The Green 8 organisations accept CSR may involve voluntary practices going "beyond" the law, but insist that it has as its starting point, respect and support for European law and International Agreements and for all other standard-setting instruments.



II. General limitations of the CSR approach & Green 8 concerns

While the Green 8 may welcome CSR efforts by some companies as an attempt to improve social and environmental performance, they want to remind that CSR cannot replace legislation and policies by governments, and can for the most - if developed in the right context - be a helpful complement to it. Voluntary initiatives aimed at setting standards such as the OECD Guidelines for MNCs, the UN Global Compact Principles, the Global Reporting Initiative (GRI) are just not enough. The striking lack of implementation and compliance certainly is the best proof of their limitations. The obvious structural weaknesses behind it are that they do not have adequate monitoring and credible verification, as well as there are missing compliance and sanctions mechanisms. The voluntary instruments of the EU have not been a success with EU industry either; this shows for instance in the EU Eco-label boycott by EU companies or the stagnation of EMAS applications.

Effectiveness

There are also obvious limitations to what can be achieved with CSR. For instance in the field of climate change, the developed countries will need to reduce CO₂ emissions by 80% in the medium/long term. The first 20% reduction in energy use might still be done as a win-win scenario and as part of CSR. The necessary additional 60% however can only be achieved if governments set the necessary economic and political framework. Voluntary measures beyond win-win scenarios are not compatible with the need of companies for short-term profits, and therefore cannot drive the necessary change.

Misuse for PR reasons and damaged credibility

For the business side, CSR is not only about the improvement of management schemes and sustainability in impacts, but it also is a useful tool for marketing. Over the last decade NGOs have documented many cases of company 'Greenwash' - where CSR policy was either limited to lip-service for marketing reasons or, even worse, misused to gloss over the irresponsible activities of companies – and therefore the CSR approach lost credibility.

Political diversionary tactics

The Green 8 frequently observe that the very same companies, who claim their leadership in CSR, are also those most active in undermining the implementation or the development of legislation for sustainable development. This strengthens the mistrust against CSR processes and the argument that the involvement in CSR by companies is little more than a political diversionary tactic, aiming to prevent or slow down the relevant regulatory process.

III. A meaningful European CSR process & the EU CSR Multi-Stakeholder Forum

The EU Multi-Stakeholder Forum (EU MSF) and the final report

The one-and-a-half years process of case studies has deepened the understanding of the requirements for a transparent and credible CSR process. (2) The Green 8 recognise that the CSR process is not the appropriate place to address all the necessary policies and legislative measures for achieving sustainability (such as European-wide energy taxes or the new chemical legislation). But if the confidence of civil society in this process is to be established, and to make this process meaningful for sustainable development, the Green 8 consider that the final report preamble must explicitly:

- Recognise the limitations of CSR,
- Reiterate that CSR will not contribute to sustainable development in the absence of a regulatory framework, which creates a level playing field where all operators willing to go beyond legal requirements can do so and benefit from it through market forces,
- Clarify that CSR can not and will not be misused as an argument against binding legislation,
- Recall that CSR is only one instrument in a mixed tool bag to promote social, economic and environmental progress (sustainable development).

Measures to ensure a meaningful voluntary CSR process

In order to make sense of it and to make it credible to the public, the CSR process itself – even when being voluntary for companies – must go beyond the *Acquis Communautaire* and other existing national legislation in the EU, must be clearly defined and be able to demonstrate its credibility by visible, substantial, i.e. measurable results. Therefore a clear and binding set of rules and guidelines for those companies participating in the process will be essential. Without them CSR will have no credibility.

The Green 8 believe that the EU in particular and Member States in general have the responsibility to ensure the development of an appropriate framework for such a meaningful CSR process. This requires:

A) Responsibility and ambition for public authorities

High EU ambitions and Member State leadership in the areas of implementation and enforcement of existing and recognised international agreements, European law and national laws and voluntary instruments - like the OECD Guidelines, GRI or labels on sustainable forest management - will be the necessary first step for levelling the playing-field.

An overarching, integrated standard on CSR should NOT be developed in ISO according to the current ISO procedures. ISO is industry dominated and does not allow for a balanced multi-stakeholder participation. Also only very few national

standard bodies are integrating the views of public interest groups and are thus not able to transport their comments to the international level.

The EU should therefore establish its own ambitious and balanced process, and in the same time push for progress on the international scene rather than expecting miracles from a meaningless international process. The EU has to ensure that SMEs in Europe and abroad are not unnecessarily marginalized through its process.

B) A strong environmental dimension of the EU CSR framework

The environment has to be fully integrated into CSR, and not only be addressed as a tick-on option that lacks any substance.

CSR initiatives shall be based on the Precautionary Principle. Potential risks for the environment and health from an activity, a practice or a product need to be identified and anticipated. The existence of a scientific debate or uncertainty must not deter the adoption of safer alternatives.

So far there is no list of international environmental standards and norms (apart from the international agreements) that would be recognised and accepted by all relevant stakeholders. The EU should also take the lead to ensure the establishment of a Multi-Stakeholder process that would have as its objective, to define such a list of environmental principles and standards as a priority.

The European EMAS and Eco-label Regulations do currently not qualify for this purpose. To change that the EU would need to thoroughly revise them and make their requirements more demanding, so that enterprises applying for either of them can demonstrate excellence. Also, negotiated agreements would attract more public interest if they were more ambitious and not only “business as usual”.

C) Further essential criteria for the EU CSR framework

- A balanced Multi-stakeholder involvement and transparency are prerequisites for credible CSR. This regards as much the agreement of standards for CSR as well as a monitoring system. Moreover there should be an easily accessible complaint mechanism. Without those measures companies can report whatever they wish on their CSR, which makes the process meaningless. Such measures are also highly in the interest of companies who are front-runners.

- The identification of the right stakeholders is a crucial component and should not to be exclusively in the hands of enterprises. They must also include those who apply, e.g. consumers’ or affected communities’ representatives, and also allow stakeholders to identify themselves.

- CSR enterprises will reinforce their commitment to comply with existing legislation for social and environmental protection.

- CSR companies shall ensure internal strategic coherence; cross-departmental and in all locations where they are operational. They will apply the same level of social and environmental protection inside and outside the EU.

- CSR means that companies include taxation into their CSR agenda, and that for instance they do not get involved in tax evasion activities or take advantage of tax havens.

- CSR has to also cover supply chain management. The cost of implementation of CSR initiatives (e.g. certification, codes of conduct, audits) should not simply be passed up the supply chain to exporters or producers. Such initiatives should also ensure that they do not unnecessarily marginalise SMEs, in particular in developing countries.

- CSR must be based on common objectives, targets and benchmarks. It must also define levels of good practice. CSR initiatives need to be based on a sound evaluation of their impact on the environment and society at large.

D) Increased transparency and disclosure of relevant information to the public

Beyond the reporting requirements on dangers for health and the environment associated with certain activities, like releases of hazardous substances or GMO's or product composition; the EU should ensure the provision of comprehensive point of sale information about products and services (including entire supply chain and activities outside Europe).

The development of a framework for supplementary information would be an additional effective driver for CSR, such as disclosure of payments and lobbying; membership in industry associations involved in lobbying; violation of the law, fines and settlements, trials waiting for verdict, costs of remediation of environmental damage, actions taken to avoid and violation of environmental legislation.

Incentives for boosting a beneficial CSR process

The EU and Member States Governments have the power to boost the participation of corporations in the CSR process through measures such as:

- a) Preference for companies with a proven positive CSR record in public tenders (see rules for reporting above),
- b) CSR as a prerequisite for companies to participate in any development project,
- c) CSR as a prerequisite for public loans (such as export credit guarantees),
- d) CSR as a prerequisite for being a beneficiary in any EU fund (e.g. Cohesion/Structural Funds)

IV. Conclusions

While the CSR measures of companies can be a useful complement in the pursuit of sustainable development, the Green 8 believe that governments must as a priority, set the necessary legislative framework in order to ensure that the activities of corporations are socially and environmentally responsible and sustainable. This means development, implementation and enforcement of relevant legislation and agreements on the one hand – and the establishment of a framework of binding rules ensuring transparent, coherent and verifiable CSR practices on the other.

Notes:

(1) The global community of Heads of States committed itself at the **UN World Summit on Sustainable Development in Johannesburg** to ‘*actively promote corporate responsibility and accountability, based on the Rio principles, including through the full development and effective implementation of intergovernmental agreements and measures, international initiatives and public-private partnerships and appropriate national regulations, and support continuous improvement in corporate practices in all countries*’. On 30.09.02 in their post-WSSD General Affairs Council Conclusions the European Foreign Ministers reaffirmed their commitment.

(2) The July 2002 **Commission Communication** ‘Corporate Social Responsibility – a business contribution to Sustainable Development’ has recognised that *public policy can contribute to the development of an action framework with a view to promote transparency and credibility for CSR practices*. The Commission has also put high and clear expectations on the European Multi-Stakeholder Forum (EU MSF) to progress on resolving the key questions on effectiveness, convergence, transparency and credibility of those practices and instruments. Furthermore, it invited the EU MSF to seek to establish a common EU approach and guiding principles as much as develop commonly agreed guidelines and criteria for measurement, reporting and assurance and identify where additional action is needed at European level.

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