Corporate Responsibility
for Environment and Development

Promoting a European Framework for Corporate Social Responsibility: IIED Response to the EC Green Paper

IIED
The International Institute for Environment and Development (IIED) is an independent, non-profit research institute working in the field of sustainable development. It seeks to promote policies and practices that deliver progressive benefits to the poor, and better and more equitable management of the environment.

IIED's programme on Corporate Responsibility for Environment and Development (CRED) focuses on bringing southern perspectives into the international corporate responsibility debate. The aim is to highlight where and how corporate responsibility initiatives can best contribute to sustainable development, particularly in poor countries, and the kind of public policy and civil society interventions that are needed to support them.

Many of the most hotly contested issues of the new corporate social responsibility agenda are centred on the global impacts of business, particularly in the South. Yet the debate is being overwhelmingly driven by northern stakeholders, particularly large companies and non-governmental organisations based in OECD countries. There are few mechanisms that enable southern stakeholders to inform and influence corporate policy and practice.

Executive Summary

We welcome the EU's interest in developing a European framework for corporate social responsibility. An EU strategy should recognise the value of considering all dimensions of business impacts on the economy, on society and the environment in an integrated way. The role and value of both voluntary and regulatory approaches must be considered alongside one another. The EU's approach to CSR should encompass the full range of business organizations. It should ensure that the external ('beyond the EU') and development aspects of CSR are addressed fully.

An urgent challenge is to work out the most appropriate institutional mechanisms for ensuring that CSR concerns and approaches are integrated across EU policy.

The EU as facilitator of change
The EU should launch a major 'equity in standards' initiative to ensure that environmental and social labelling and certification schemes and standards bodies working on CSR issues take account of the interests and views of vulnerable and/or marginalized enterprises, particularly those in developing countries. Where EU product-related legislation is proposed, the EU should lead by example. The EU should also promote the concept of corporate responsibility among the export credit and development finance agencies of EU member states as well as the private financial institutions that finance foreign direct investment.

The EU as funder
As a funder, the EU should support research into the application of development tools and concepts to CSR issues, in order better to take advantage of the potential synergies between the international development and CSR agendas. The EU's research funding should also support work to build understanding of the impacts of CSR initiatives and tools on

development. The EU should help to build appropriate funding mechanisms and sources in order to sustain the credibility of civil society interventions: there are circumstances where corporate funding for civil society involvement in CSR initiatives can reduce their credibility.

The EU as development agency
The full implications of the CSR agenda should be recognized and integrated within European development policy. DG Development and EuropeAid should consider how best to work with business to achieve goals of poverty alleviation and sustainable development. EU development cooperation can also help to equip host country governments in poor countries to take maximize the potential of the CSR agenda in their dealings with investors and donors.

The EU as legislator
The EU should explore the potential for a right of public access to health and safety, environmental and human-rights based information held by companies. Second, the EU should consider the medium-term potential for a new Regulation on corporate social and environmental reporting. Third, the EU should begin to examine the role of a limited EU-wide framework of liability for parent companies of multinational corporations headquartered in the EU.

The need for review
Any EU framework for CSR must be readily capable of review in the light of changing circumstances and new evidence. It is only now that clear options are beginning to emerge for public policy interventions in the CSR agenda. Consensus will take longer to build.

1. Introduction to this response
This response to the Green Paper is divided into two principal sections. The first provides comments on the overall approach to corporate social responsibility within the Green Paper, respectively related to:

- *the limited vision of corporate responsibility outlined in the paper;*
- *the paper's limited reference to the external (non-EU) dimension of corporate responsibility, and*
- *the need to address corporate responsibility issues for small- and medium-sized enterprises and the full range of business organisations, both within and outside the EU.*

The second principal section addresses the overall question 'what could the European Union do to promote the development of corporate social responsibility at European and international level?' We have focused particularly on 'actions to support CSR' and related questions set out on page 23 of the Green Paper, but we limit our suggestions to initiatives and approaches that could be taken at EU level.

Our concrete suggestions for initiatives and approaches at the EU level are shaped by our comments on the overall approach to corporate social responsibility within the Green Paper. Since we offer an alternative, goal-oriented starting point for the Commission's conceptualization of corporate social responsibility, some of our suggestions for change diverge from the Green Paper's basic starting point, that 'proposals should build on the voluntary nature of corporate social responsibility' (para. 90).

We limit our comments and suggestions to those areas where our work, as individuals or as an organization, has given us direct experience. We assume throughout that a White Paper will follow the Green Paper.

2. Expanding the Green Paper's vision of corporate social responsibility (CSR)

2.1 Defining CSR

We welcome the Commission's interest in promoting 'transparency, coherence and best practice in corporate social responsibility'. But this must not be pursued to the detriment of policy development in other areas of EU policy and law with a strong corporate responsibility angle, such as industrial pollution control, company law, or development cooperation.

The Green Paper's starting point is that corporate social responsibility 'is essentially a concept whereby companies decide voluntarily to contribute to a better society and a cleaner environment.' (para.8).

We advocate a broader approach that does not focus on the 'voluntary' nature of corporate decisions to contribute to a better society and a cleaner environment. In order to create the incentives for all businesses to adopt more socially and environmentally positive practices, a combination of enabling and censuring legislation is needed, alongside the raft of voluntary tools currently being developed, and pressure from civil society campaigns. Measures based on legislation, such as pollution limits, fiscal incentives and disclosure requirements, should be understood as ways to promote CSR alongside tools such as those that have emerged to guide ethical supply chain management, corporate reporting, codes of conduct and SRI fund management.

The Green Paper's focus on voluntary initiatives means that it restricts itself to addressing those CSR initiatives which rely on clear commercial benefits, or the 'business case' (since for-profit corporations will not undertake initiatives for which no business case can be made). The 'business case' is most readily made to companies (particularly large companies) with high profile brand images which are vulnerable to negative publicity, or to those companies that produce products for consumption in the limited number of sectors where additional costs of CSR can be passed on to others in the supply chain (whether producers or consumers) or otherwise recouped.

CSR is about understanding business as part of society, contributing directly to the welfare of society, rather than somehow separate from it. CSR is an invitation to make policy and strategy choices based on an understanding of the total impacts of business on society. The EU's overall goal should therefore be to play its part in ensuring that the positive impacts of business activity on society and the environment are enhanced and unacceptable negative impacts minimised. Where the market is unable to deliver an acceptable balance between costs and benefits, or distributes the costs and benefits unfairly, public policy must set the framework.

The Green Paper's starting point misses this vital goal-setting phase.

Recommendation

- The White Paper to be developed following the current consultation should **expand the scope of the Green Paper's approach to corporate social responsibility** to recognise the value of considering all dimensions of corporate impacts on the economy, on society and the environment in an integrated way. The role and value of voluntary and regulatory approaches, as well as 'hybrid' approaches that incentivise without prescribing voluntary approaches, must be considered alongside one another.

2.2 Corporate Responsibility beyond the European Union

The section of the Green Paper that deals with the 'external dimension' of corporate social responsibility is based on an unhelpful confusion between 'external' in the sense of 'beyond *the factory gate', and 'external' in the sense of 'beyond the EU'. It is vital to distinguish between the two aspects.*

Recommendation

- The White Paper must ensure that the EU's approach to corporate social responsibility **addresses in full the external ('beyond the EU') aspects of the CSR agenda, especially those in developing countries.**

2.3 Corporate Responsibility Beyond Large Companies

The Green Paper says that the corporate social responsibility concept is 'mainly driven by large companies' (para 5). This starting point reflects the reality that (some) large companies have been more visible in the CSR agenda because they have more resources to devote to publicizing their involvement and taking part in agenda-setting. But, whilst the paper notes later that many SMEs already take up their social responsibility, it may also unhelpfully feed a perception that large businesses are 'good' and small companies are 'bad'.

Beyond the Limited Liability Company

Current corporate governance places limits on CSR strategies within limited liability companies. But business organizations take a variety of forms and different governance structures differ in their capacity to recognize and integrate social and environmental responsibilities and in the scope that they offer for giving employees, contractor and clients a voice in business decision-making.

We support the Green Paper's inclusion of cooperative, mutual and associative enterprises in its description of corporate social responsibilities (para. 23). Cooperatives deserve particular mention. As UN Secretary-General Kofi Annan said on the occasion of the fifth International Day for cooperatives, 'Cooperators are united by a sense of social responsibility and concern for the community in which they operate. Common to the whole cooperative movement are the values of self-help, self-responsibility, democracy, equality, equity and solidarity.' *In 1994, the United Nations estimated that the lives of half the world's population are made secure by cooperative enterprises.*

The EU's approach to CSR should encompass the full range of business organizations so that the focus is 'enterprise' responsibility rather than 'corporate' responsibility.

SMEs

We welcome the Green Paper's recognition of the contribution of SMEs to the economy and employment (para.23). This contribution is even greater as a proportion of overall economic activity in many poorer countries of the world.

Many smaller, less visible and/or marginalized producers and enterprises, particularly those in developing countries, need practical assistance to meet requirements driven by the CSR agenda, and to participate effectively in it as it unfolds. There is a risk that CSR – whether expressed through mandatory or voluntary initiatives - may impose unacceptable costs and responsibilities on SMEs within and beyond the EU, leading to further market concentration among larger players. There is a need for the EU to assess the CSR implications of factors such as advantages of scale and the commercial predisposition to drive out competition.

In its role as funder and advocate, the EU can provide support for SMEs outside the EU. The aim should be to work with SMEs and host country governments to stimulate trade and investment in sustainably produced goods and services and ensure that the CSR agenda does itself have socially unacceptable impacts (such as shifting production to sectors that are not subject to scrutiny under the pressure of supply-chain led environmental or social initiatives).

Recommendations

The EU should:

- build on the experience of the cooperative movement and other forms of business organization beyond the limited liability company - within and beyond the EU;
- seek to build awareness of corporate responsibility issues, tools and solutions among SMEs;
- ensure that CSR tools do not discriminate against small businesses inside and outside the EU;
- build the capacity of SMEs to respond to the CSR agenda, including those in the South;
- undertake awareness-raising, training and capacity-building initiatives that help smaller enterprises – including those outside the EU – to comply with existing legal baselines and engage with the CSR agenda, whilst disincentivising non-compliance; and
- lead discussion on ways to ensure that CSR does not become a driver of homogenization and market concentration.
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3. The European Union's role

3.1 Getting the Institutional Framework Right

The Green Paper asks 'what are the best ways to build links between the social and environmental dimensions of corporate social responsibility?' Building links to the economic dimensions of corporate social responsibility is also important. The paper asks how the European Union could promote greater application of corporate social responsibility principles through its policies within Europe and internationally (page 23). The question is an important one, and leads directly to issues surrounding the need to ensure that the institutional framework for the European Union's input facilitates integration of CSR considerations across the EU's policies and practices.

An EU corporate social responsibility framework should build on work that currently falls within the scope of DGs Employment and Social Affairs, Development, Enterprise, Environment, Trade, Internal Market, Transport, Agriculture, and External Relations, among others. Conversely, consideration of corporate responsibility should be integrated into the work of all relevant DGs.

An urgent challenge is to work out the most appropriate institutional mechanisms within the European Commission for tackling the CSR agenda in its broadest sense.

Recommendation

- The EU should **explore mechanisms for the integration of CSR concerns and approaches across EU policy,** drawing on the 'integration' theme within the EU's Sixth Environment Action Programme and the EU sustainable development strategy. The possibilities for encouraging good practice and discouraging bad practice among businesses should be maximized across all EU initiatives.

3.2 Equity in standards

For both regulatory and voluntary approaches to CSR, it is important to bring southern stakeholder perspectives into the design and implementation of CSR initiatives. People and institutions in poorer countries often lack the capacity effectively to monitor corporate impacts. The drivers of CSR are often the narrow priorities of single-interest pressure groups or the incomplete information of northern consumers. These pressures for change are not uniform within or between sectors. Demand-side requirements may not coincide with local social and environmental priorities. Knee-jerk corporate reactions to public pressure, such as the exclusion of child labour from supply chains, can lead to harmed livelihood opportunities, shifting employment to more dangerous but less internationally visible local industries.

IIED's experience working within the forestry sector in particular suggests that the willingness of consumers to pay more for responsibly produced goods and services is often over-stated. Increasingly stringent and expensive requirements for companies to demonstrate their social and environmental policies by adhering to buyers' codes of conduct or private certification schemes have the potential to exclude many southern producers from market access. And inspecting a large number of disparate suppliers has the potential to become too complicated for buyers, who may rationalize their supply base, favouring only the larger producers.

The EU should discourage voluntary initiatives that distribute benefits and burdens in inequitable ways and actively promote efforts to monitor and review the impacts of the CSR initiatives on development. The Green Paper's support for voluntary approaches fails to recognize these risks, focusing principally on the need to promote 'effectiveness and reliability' of corporate social responsibility instruments (page 23).

Failure to take account of the needs and priorities of southern producers in the development of labelling and certification initiatives can fuel allegations of trade protectionism – even when this is not intended. It could also open the EU to the charge that corporate social responsibility is a means of pursuing neo-colonialist foreign policy goals.

Work at IIED has stressed the importance of joint development of standards among all stakeholders as a means of stimulating equitable 'sustainable trade'. This will mean working together to improve the impacts of EU-oriented supply-chain requirements on the livelihoods of people beyond the EU. It may include developing new advance warning 'impact assessment' tools, and radically different ways of incorporating the views of poor or otherwise marginalized stakeholders in CSR-related standards; sharing best practice and developing guidelines for codes of conduct and certification schemes.

As the role of the Organisation for International Standards (ISO) in corporate social responsibility develops, it will also be important to ensure that CEN and national standards bodies within the EU, as well as standards bodies outside the EU, include diverse stakeholders within their deliberations. There is value in the EU contributing to funding for this participation.

Recommendations
The EU should:

- Support work to **build understanding of the impacts of CSR initiatives and tools such as certification and labelling on development.**
- Create an **Equity in Standards** initiative - a major push to ensure that environmental and social labelling and certification schemes and standards bodies working on CSR issues take account of the interests and views of vulnerable and/or marginalized producers, particularly those in developing countries. The EU should lead by example where EU legislation with trade impacts is proposed (e.g. restrictions on marketing or use of products).
- Reflect this need in the EU's existing **funding programmes.**

3.3. Promoting Socially Responsible Investment (SRI)

The Green Paper emphasises the role of SRI as a driver for CSR and suggests that for SRI to grow further, financial markets need to improve their awareness of its potential returns.

So far SRI has been concentrated on listed companies, mainly on European and North American stock exchanges. However, other types of financial institution both public and private have a role to play in providing incentives for CSR. This is particularly relevant to the issue of foreign direct investment (FDI) and corporate responsibility beyond the EU. Export credit agencies (ECAs) and development finance institutions of EU member states are *important providers of loan finance, equity and insurance to FDI projects. Commercial banks and venture capital funds are also crucial. The adoption by these institutions of corporate responsibility as a financing pre-condition has potentially a greater impact than that of SRI investment funds. While ECAs within the OECD are working to harmonise environmental guidelines, less attention is being given to social issues. A more comprehensive approach is needed.*

It is also necessary to address other barriers to SRI since lack of awareness of its potential returns is not the only barrier. Lack of awareness amongst individual investors or contributors to pension funds about the decisions being made on their behalf and about the options available may be just as important.

There may also be justification for providing incentives for SRI through tax concessions since such means have commonly been used to promote other objectives, for example reductions on capital gains tax for investments held longer than a specified time period to promote long-term investment.

Recommendations

- The EU should **promote the concept of corporate responsibility among the export credit and development finance agencies of EU member states** as well as the private financial institutions that finance FDI.
- The EU should **support research on the barriers to SRI and on the options for tax concessions and other economic instruments to provide incentives for SRI**.

3.4 Linking Development Tools and CSR

There is a need to build and disseminate understanding of the potential value of development tools in the private sector (e.g. participatory monitoring and evaluation, or the sustainable livelihoods framework), particularly with a view to enhancing synergies between globally or bilaterally agreed sustainable development targets and company-driven initiatives on the ground outside the EU.

Recommendation

- The EU should **support research into the application of development tools and concepts to CSR issues,** in order better to take advantage of the potential synergies between the international development and CSR agendas.

3.5 Removing legal disincentives for CSR

Some companies, civil society based organisations and trade associations currently feel constrained by legal requirements from developing initiatives that could bring environment, social and economic benefits. It is possible that such constraints could result from the requirements of EU competition law and public procurement guidelines. For example, does competition law, with its focus on consumer welfare in the evaluation of anti-competitive practices, adequately consider the interests of small producers, or the interests of stakeholders beyond the EU?

Certain interpretations of the WTO's Technical Barriers to Trade Agreement could censure initiatives for voluntary or mandatory labelling or certification of products when these are led or supported by WTO Members and when they include criteria that take account of impacts outside the country where the product is consumed.

Recommendations

- The EU should carry out a **review of its competition law and policy in the light of contemporary CSR concerns** in order to make sure that it supports corporate social responsibility.

- The EU should work to **monitor the relevance of EU public procurement rules and guidelines** in the light of developments in the CSR agenda.
- The **EU's input on environmental labelling in the WTO Committee on Trade and Environment** should take account of the need to ensure that voluntary labelling and certification initiatives equitably take account of the interests of producers in developing countries.

3.6 Building appropriate funding mechanisms

Many corporate responsibility initiatives that are based on multi-sectoral stakeholder engagement rely on independent and critical civil society input. However, dedicated funding for such interventions is scarce and often likely only to be available from the corporate sector. There are circumstances where corporate funding for civil society involvement in CSR initiatives can reduce the credibility of those initiatives, both for the civil society organisation and the companies involved.

Recommendation

- The EU should help to **build appropriate funding mechanisms and sources, perhaps matching corporate funds, in order to sustain the credibility of civil society interventions**.

3.7 Reporting

The Green Paper asks how best to take forward the invitation to business to publish a 'triple bottom line' in annual reports to shareholders (page 22).

Many stakeholders believe that the time is already right for mandatory environmental and social reporting for publicly listed companies over a particular threshold (e.g. turnover or number of employees). We see the value of exploring the potential of such an initiative over the medium term, perhaps initially based on a Regulation, compliance with which is voluntary (as with the EMAS and ecolabelling Regulations).

The guidelines developed by the Global Reporting Initiative may over time become a helpful reference point for a new triple bottom line reporting Regulation. It will become increasingly appropriate over time to look beyond the traditional standards bodies (CEN, ISO etc) for inspiration when drawing up EU legislation in the CSR field.

Recommendation

- The EU should **consider the medium-term potential for a new Regulation on corporate social and environmental reporting**, and begin discussions on the potential to incorporate GRI guidelines as a reference point for such a future Regulation.

3.8 Access to Information

Work at EU level to build a framework for mandatory reporting would provide published access to information on company performance around certain limited indicators. Alongside work to build a framework for mandatory reporting, we believe that the time may now also be right to explore the potential for a right of public access to health and safety, environmental and human rights-based information held by companies.

Such legislation would need to be drawn to protect commercial confidentiality, and to ensure that the costs of administering a right of access to information were equitably drawn. But an acceptable compromise could no doubt be achieved. A right of access to information would substantially facilitate external scrutiny of corporate environmental and social performance alongside economic performance.

South Africa's Promotion of Access to Information Act 2000 has already moved in this direction in relation to information required for the protection or exercise of constitutional rights.

Recommendation

- The EU should **explore the potential for a right of public access to health and safety, environmental and human-rights based information held by companies.**

3.9 Supporting Effective Governance in Poor Countries

The Green Paper says that compliance with the law is the baseline for all companies, and refers to the task of 'putting the proper regulatory or legislative framework in place in order to define a level playing field..' (para 22). But the paper fails to acknowledge the challenges of ensuring implementation and enforcement of that baseline in different parts of the world. In a recent global survey of the forestry sector, it was not unusual for more than 50% of all forest commerce activity to be technically illegal.

A related problem lies with the difficulty that private citizens face in many parts of the world in securing compensation or legal redress from companies that harm the health of workers or pollute the environment. In many countries, there is a need to facilitate private actions by developing country citizens to enforce already-existing rights to compensation or legal remedy against companies (both multinational and domestic) and build capacity among private-sector lawyers to bring such actions.

Without effective governance underpinning the implementation and enforcement of existing legislation, the new expectations of the voluntary CSR agenda may be undermined. Many companies have little incentive to go beyond compliance (particularly given the patchy evidence of business benefits) when even failure to comply with legal requirements goes un-censured.

As home to some of the world's largest donor agencies, the EU has a role to play in helping to overcome some of these problems. As well as efforts to integrate CSR considerations into development cooperation for better governance, there is a need for DG Development and EuropeAid to consider how best to work with business to secure more rapid realisation of goals of poverty alleviation and sustainable development (thereby enhancing the business contribution to meeting those goals). EU cooperation potentially has a major role to play in equipping host country governments – particularly in poor countries – to take advantage of the corporate responsibility agenda in their dealings with investors and donors.

For the future, the EU could build on experience with the environmental liability directive to build a narrowly defined liability framework designed to eliminate the worst corporate abuses of the environment, human rights, worker health and safety. Such a framework could be applied extraterritorially in cases where there is evidence that parent companies knowingly 'export' worst practice to developing countries and retain de facto management control over the operations of those companies.

In a limited form, with appropriate safeguards for avoidance tactics on the part of companies, such legislation would serve only to outlaw the worst forms of behaviour that no responsible company would wish to associate itself with. It is important to the value of such legislation that it should be applied equally to public and private companies, no matter what their size.

Recommendations

- The EU should **explore ways of enabling host countries to take advantage of the opportunities offered by the CSR agenda and integrate CSR into development cooperation.**

- The EU should begin to **examine the role of a limited EU-wide framework of liability** for parent companies of multinational corporations headquartered in the EU.

4. Conclusion

We welcome this consultation exercise and the EU's interest in developing a European framework for corporate social responsibility. We would stress the need for flexibility in addressing the agenda. Whatever the Commission decides now must be readily capable of review in the light of changing circumstances and new evidence. The corporate social responsibility agenda is developing rapidly. Many of our recommendations are of necessity tentative, suggesting that the EU 'should explore' various options for action. It is only now that clear options are beginning to emerge for public policy interventions. Consensus will take more time to build.

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