CENTRE FOR EUROPEAN REFORM

CORPORATE SOCIAL RESPONSIBILITY IN THE EU

Alasdair Murray

CENTRE FOR EUROPEAN REFORM

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United Utilities

As a company committed to our corporate responsibilities, United Utilities is pleased to be supporting this CER paper on the EU and corporate social responsibility. It is a valuable contribution to an ongoing debate and has produced a series of sensible recommendations to help improve policies and practices within the EU.

As a multi-utility company we have a responsibility to a diverse set of stakeholders. These include customers, suppliers, investors, employees, regulators and our local communities. Positively managing our impact on society through support of corporate social responsibility is crucial to the satisfaction of our stakeholders.

For further information on our performance please see our Corporate Responsibility report on our website (www.unitedutilities.com) or contact:

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Foreword

For Diageo, good corporate citizenship encompasses all the ways in which our business and products interact with society and the natural world.

We believe that community involvement is a vital part of our corporate citizenship. The key word is involvement. It marks the difference between simply making charitable donations and taking action in the communities where we operate. We aim to support projects by providing company resources that will help each project stand on its own. In this way, the impact of what we do in the community can be many more times effective.

Around the world, Diageo companies are involved in supporting hundreds of community projects. For example Diageo, through its Johnnie Walker global brand programme 'keep walking', has worked in countries such as India, Mexico and Thailand, providing financial backing for young entrepreneurs and individuals who dream of improving society.

As part of our commitment to the environment, we support and promote bio-diversity and sustainability through our 'Water of life' programme. The programme has, so far, given half a million people in developing countries access to clean drinking water for the first time, and supported the conservation of over 20 species. Diageo has worked with environment agencies such as Earthwatch and WWF on conservation projects in areas such as Lake Kerkini in Northern Greece, the Uckermark Lakes in Germany and the Jizera Mountains of the Czech Republic.

For further information on Diageo's approach to corporate citizenship and projects supported around the world, please visit www.diageo.com.

1 Introduction

In recent years, businesses, policy-makers and the media have begun to employ the term ‘corporate social responsibility’ (CSR) to describe a broad range of corporate activities which do not directly relate to the pursuit of profit. Businesses use CSR to explain – and sometimes justify – voluntary practices including philanthropic donations, the development of equal opportunities policies or efforts to reduce environmental damage. Meanwhile, pressure groups and some politicians insist that CSR is not a matter for businesses alone, and that governments must ensure companies are legally and politically accountable for their social and environmental policies.

CSR proponents have steadily gained ground within Europe. Many European companies – from Unilever, the household goods group, to energy giants such as BP and Shell – have embraced CSR as a key part of their businesses. Moreover, a number of EU member-states, most notably Britain, Denmark and the Netherlands, have sought to encourage the business community to adopt CSR strategies. More recently, the European Union has begun to debate whether it should play a role in promoting CSR among European firms.

CSR has also become an integral part of the debate over globalisation. Governments and pressure groups argue that companies should develop policies to tackle the downsides to the expansion of international trade, particularly in developing countries. They share the belief that multinational companies are becoming ever more powerful actors in the world economy. Consequently, businesses must also accept greater responsibility for the by-products of globalisation – such as environmental degradation and social dislocation. Thus, corporate social responsibility provides one means by which businesses could help manage globalisation.

Whether businesses are more powerful players in the world economy than in the past is a matter of some dispute. Anti-globalisation campaigners cite figures that show the largest multinationals now turnover sums far larger than the GDP of many developing countries. The author Noreena Hertz, for instance, claims, "Of the world's 100 largest economies, 51 are now corporations, only 49 states."[1] Campaigners also highlight countless examples of alleged corporate irresponsibility to support their view that multinationals abuse their economic might at the expense of communities and the environment. They accuse Gap, Levi Strauss and Adidas of using child labour to make clothing and sporting equipment in South and East Asia; and they claim that Nestlé contributes to thousands of infant deaths each year by encouraging mothers to feed children with artificial rather than breast milk. Campaigners also cite evidence that Premier Oil has made use of forced labour on its pipelines in Burma, while Rio Tinto has forcibly evicted local people from the area around its mine in Kalimantan, Indonesia.[2]

[1] *Noreena Hertz, 'The Silent Takeover', Random House, 2001.*

[2] *See www.corpwatch.org for a list of alleged corporate wrong-doings.*

At the same time, globalisation has increased competitive pressures on businesses and made multinationals more vulnerable to consumer boycotts and campaigns – as Shell, Nestlé and Gap have found out to their cost. CSR campaigners have learnt that they can often achieve results by pressuring a company to modify its behaviour, rather than appealing to governments to legislate. Some businesses, particularly those working in politically sensitive industries such as oil or pharmaceuticals, now prefer to anticipate the complaints of critics. For these companies, corporate social responsibility is becoming a central element of their business strategies.

Nor is the debate on CSR restricted to the emotive issue of the activities of multinationals in developing countries. CSR proponents argue it could also be a useful tool for dealing with problems in the developed world, such as unemployment, social exclusion and pollution. Private companies which control formerly state-owned services – such as water and electricity – employ CSR as a way of balancing the needs of their business with a responsibility for maintaining essential services. But even companies which do not operate in sensitive economic sectors are voluntarily adopting CSR, in the belief that it will contribute to the long-term success of their business. Advocates of the 'business case' argue that a CSR strategy can help cut environmental costs, raise productivity and improve staff recruitment and retention rates.

In the last few years, governments have also begun to promote CSR as a means of enlisting business help in raising social and environmental standards. However, most businesses remain adamant that CSR must be a business-led and voluntary process. They argue that government intervention should be limited to 'soft' policy measures, such as information provision and the spread of best practice.

But corporate social responsibility cannot easily be disentangled from broader issues of public policy. CSR touches on subjects as diverse as labour market and environmental law, intellectual property laws, international trade and even foreign policy. Governments must decide when businesses should be encouraged to tackle voluntarily social or environmental problems, and when legislation is required.

A number of EU governments, most notably in Britain, Denmark and the Netherlands, regard CSR as a way of reconciling their aspirations for higher social and environmental standards with a pro-business agenda. This view became official EU policy following the Lisbon summit in March 2000. At Lisbon, EU leaders endorsed corporate social responsibility as a means of not only tackling social exclusion and promoting sustainable development, but also of improving the competitiveness of European businesses. The

European Commission has subsequently taken the first steps towards developing an EU approach to CSR, setting up a forum of experts to discuss policy issues in the autumn of 2002.

However, EU member-states remain deeply divided about what measures the EU should take to promote corporate social responsibility. Some EU countries, such as Germany and Austria, are sceptical about the value of corporate social responsibility in raising environmental and social standards. Many politicians and labour unions in these countries suspect that CSR, with its emphasis on voluntary action by business, could undermine their social model which is based on law. Meanwhile, some influential non-governmental organisations (NGOs), such as Oxfam and Amnesty, would prefer the EU to adopt a prescriptive approach, for instance by compelling all listed companies to produce detailed reports on their social and environmental policies.

Ironically, member-states such as Britain, and indeed some businesses, which were enthusiastic about placing CSR on the European agenda, are now expressing reservations about the EU's involvement. In part this reflects concern that the Commission might employ CSR as a vehicle to revive long-stalled social or environmental legislation. Businesses also worry that the EU might promote a rigid European social model in global discussions on corporate social responsibility. They would prefer to reach consensus on CSR policies at a national or global, rather than European, level.

But businesses and those member-states which strongly support the development of CSR should not shy away from promoting a European dimension. There are strong reasons why the EU should begin to develop a common approach to corporate social responsibility. The EU provides a forum for governments and businesses to exchange information and share best practice. Moreover, the EU already plays a role in setting trade, aid, environmental and social policies, which are directly related to corporate social

responsibility. For example, member-states have found that national attempts to promote CSR – through fiscal incentives or social labelling schemes – often fall foul of EU single market rules.

More fundamentally, social and environmental policy is not going to disappear from the EU's agenda. Unions and pressure groups continue to agitate for Europe to develop a stronger social dimension. They argue that the benefits businesses accrue from the single market must be balanced with greater protection for workers and the environment. The EU's draft constitution treaty reflects many of these concerns, stating that the Union's core objectives should include working towards 'a Europe of substainable development based on balanced economic growth, a social market economy, and with a high level of protection and improvement of the quality of the environment'. However, at the time of writing (June 2003) the draft treaty if adopted would not greatly expand the EU's formal powers to legislate on social and environmental issues.

Corporate social responsibility should form an integral part of the EU's efforts to find innovative and flexible solutions to long-standing social and environmental problems, while maintaining the competitiveness of European businesses. The promotion of CSR does not necessarily imply the dilution of existing standards, nor the full-scale withdrawal of governments from social and environmental policy. Governments will continue to set strategic goals – but they must then consider whether voluntary or legislative measures provide the most suitable means of achieving them.

Advocates of CSR need to make this case at a European level. But they must also begin to devise practical policies, which help spread CSR throughout European businesses, and demonstrate that corporate social responsibility can reconcile the EU's desire to raise both economic competiveness and social and environmental standards.

2 What is CSR?

Policy-makers employ a confusing array of terms to debate corporate social responsibility. The British Foreign and Commonwealth Office, for instance, uses the phrase 'corporate citizenship' when it is developing ethics guidelines for companies operating overseas. Some NGOs, such as environmental group Friends of the Earth, refer to 'corporate accountability' rather than CSR – implicitly rejecting the notion that socially responsible behaviour can be voluntary. Meanwhile, many businesses refer to the 'triple bottom-line' of environmental, social and financial reporting, suggesting that CSR can be reduced to a quantifiable business plan.

The EU is finding it even harder to arrive at a common definition of corporate social responsibility. CSR has become part of the vocabulary of many European languages even more recently than in the English-speaking world. A straight translation does not always convey the right meaning. For instance, Finland objected to the European Commission's translation of the term into Finnish because it failed to convey concern for the environment as one of the key elements of CSR.[3]

[3] *See 'Finland's response to the Commission's green paper on CSR', December 2001.*

Many of the business practices, which are now commonly described as 'corporate social responsibility', are not recent innovations. Companies have long undertaken philanthropic work particularly in the form of donating money, and lending skilled workers to local communities. The Quaker founders of chocolate manufacturers Rowntree and Cadbury developed ethics codes over a century ago. Both companies built model factories for their workers, supplied health and adult education facilities, and cut the length of the working week.

Similarly in the United States, pharmaceutical firms such as Merck devised codes of conduct in the late nineteenth century, which stressed that the company's first objective was to serve public health goals. By the middle of the twentieth century, some companies were considering the cross-border impact of their business practices. Robert Wood Johnson, the founder of Johnson & Johnson healthcare company, produced a 'Credo' in 1943, outlining his company's responsibilities to customers and "to the communities in which we live and work and to the world community as well".

Many NGOs complain that too many businesses simply rebrand long-running philanthropic donations as 'corporate social responsibility'. However, most definitions of CSR emphasise that it means much more than just charitable donations. Corporate social responsibility is about how a company manages relationships with all its 'stakeholders', whether staff, shareholders, consumers or the communities in which it operates.

The US-based National Policy Association, a social issues think-tank, defines CSR as: "business decision-making linked to ethical values, compliance with legal requirements and respect for people, communities and the environment." In similar fashion, CSR Europe, an EU-wide umbrella group which promotes socially responsible corporate practice, emphasises that CSR is a "business strategy" designed to contribute to the economic health of communities, offer employees good jobs, consumers safe products, and provide fair returns to stakeholders. Simon Zadek, chief executive of AccountAbility, has produced an even more far-reaching definition based on three 'generations' of CSR – ranging from philanthropy and short-term risk management (1st generation) to public policy involvement and business/NGO partnerships (3rd generation).[4]

[4] *Simon Zadek, Maya Fostater and Peter Raynard, 'Social Development and the Role of the Private Sector: Corporate Social Responsibility', unpublished Working Paper, United Nations Department for Economics and Social Affairs, 2002.*

Businesses, policy-makers and NGOs are most divided over whether CSR should be regarded as a purely voluntary practice, or whether some form of regulation is also necessary to ensure that companies behave in a more socially and environmentally responsible manner. Companies fear that unless CSR remains voluntary, it will provide governments with an excuse to introduce new environmental and social legislation.

For the moment, the EU appears to have accepted the argument that CSR is a voluntary, business-led practice. The European Commission has defined CSR as a "concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with stakeholders on a voluntary basis."[5] An EU committee, consisting of high-level member-state representatives, has also emphasised the voluntary nature of CSR. The committee defined CSR in a practical manner, listing 12 separate practices – ranging from encouraging life-long learning to promoting respect for human rights amongst suppliers – which constitute socially responsible behaviour.[6]

[5] *European Commission, 'Communication from the Commission concerning CSR: a business contribution to sustainable development', July 2002.*

[6] *See ' Corporate social responsibility: meeting of high-level national representatives', European Commission, March 28th 2001.*

However, a number of influential charities and pressure groups argue that businesses will never take their social and environmental responsibilities seriously if CSR remains voluntary. They claim that for many companies, CSR is no more than a cosmetic exercise, designed to ward off the threat of new legislation. For example, Oxfam – the aid charity – accepts that voluntary initiatives are useful to establish common standards and build a social consensus around the practice of corporate responsibility. But Oxfam also warns that the voluntary approach could result in companies dictating the priorities for CSR policies, rather than responding to the needs and demands of stakeholders.

Some MEPs are even more critical of the idea that CSR should be left to business. The employment and social affairs committee's social response to the Commission's green paper claimed that a strictly voluntary approach risks undermining global governance. "International law exists to promote and safeguard human life and the environment, and it is not for companies to decide whether they wish to contribute to this," the committee argued.[7] The committee added that there are "countless examples" which demonstrate that a voluntary approach to CSR is inadequate and that business initiatives must be reinforced by legislative proposals. Indeed, the European Parliament's development committee has begun holding annual hearings into allegations of misconduct by multinational companies. In recent years, the committee has called on companies such as Nestlé and Adidas to defend their business strategies in developing countries. However, the employment and social affairs committee – led by conservative MEP Philip Bushill-Matthews has subsequently adopted a more pro-business stance.[8]

[7] Committee on employment and social affairs, 'Draft report on the Commission green paper on promoting a European framework for corporate social responsibility', European Parliament, March 5th 2002.

[8] Committee on employment and social affairs, 'Draft report on the communication from the Commission concerning CSR', European Parliament, May 2003.

In reality, the voluntary versus compulsory argument is not the most useful way for policy-makers to frame the CSR. The very term 'corporate social responsibility' implies a range of voluntary and business-led practices. Thus, policy-makers should encourage the spread of CSR, using 'soft', or non-binding policy instruments, such as incentives to improve corporate social and environmental reporting, for example. On the other hand, governments can always introduce binding social and environmental legislation to clamp down on objectionable facets of corporate behaviour. Therefore, the fundamental question for governments and other public institutions, such as the EU, is not whether CSR should be voluntary. Rather, it is when should governments tackle social and environmental problems by encouraging the spread of CSR instead of introducing binding legislation?

CSR and its critics

The concept and practice of CSR has spread rapidly through the business sector during the last decade. Who can object to such basic values as companies treating their employees well and respecting human rights? In the last couple of years, however, a growing number of sceptics – from both the left and right of the political spectrum – have begun to question whether CSR is anything more than a management fad.

Economic liberals have supplied some of the most trenchant criticism of corporate social responsibility. They cite Milton Friedman's famous maxim that "there is only one social responsibility of business: to use its resources to engage in activities to increase its profits, so long as it stays within the rules of the game."[9] Businesses which pursue CSR goals risk losing sight of the profit motive, at the cost of the long-term health of the corporate sector and, by extension, the economy as a whole.

[9] Milton Friedman, 'The social responsibility of business is to increase its profits', New York Times, September 13th 1970.

In a provocative article, the economic commentator Martin Wolf has described CSR as "not merely undesirable but potentially quite dangerous".[10] Wolf, drawing on a paper written by David Henderson – the former chief economist of the Organisation of Economic Co-operation and Development (OECD) – argues that business is conceding ground to NGOs which are at best critical of, and often completely opposed to, market economics. Henderson dismisses such groups as "part of the new alarmist consensus on threats to the environment and the dire effects of globalisation".[11]

[10] Martin Wolf, 'Sleep-walking with the enemy', Financial Times, May 16th 2001.

[11] David Henderson, 'Anti-liberalism 2000', Institute for Economic Affairs, 2001 and 'Misguided virtue: false notions of CSR', New Zealand Business Roundtable, 2001.

Moreover, the two authors argue that CSR advocates have exaggerated the powers of the multinationals to tackle social and environmental problems, especially in developing countries. They claim the spread of CSR practices will lead inexorably to an increase in regulation worldwide, as first-movers insist that their rivals are obliged to follow the same rules. Worse, CSR could undermine the ability of businesses to help tackle developing country problems, because an increase in red-tape will reduce economic growth, and thus slow poverty reduction. Henderson quotes John Browne, chief executive of BP, as saying that CSR will ultimately need to be enforced by government legislation: "Only national governments, individually and collectively can set the standards which ensure that those who behave in ethical and transparent ways are not undercut by those who don't." Similarly Levi Strauss, the clothes manufacturer, has argued in its response to the Commission's green paper that governments may need to compel businesses to adopt CSR, in order to create a level playing field.

Wolf and Henderson also claim that CSR is inherently anti-democratic because it requires businesses to make political judgements on social and environmental issues. At best, the two authors argue, the spread of CSR will result in a form of "global neo-corporatism" with unaccountable power shared between companies, activists, international organisations – such as the United Nations and the OECD – and a few governments.

Many on the political left share Wolf and Henderson's concern that the spread of CSR could result in businesses wielding too much power over social and environmental issues. However, the left argues business is merely using CSR as a smokescreen to avoid necessary rules and regulation. Governments must intervene to compel companies to act in a socially and environmentally responsible manner; otherwise, CSR will remain little more than an exercise in public relations for multinational companies. The recent spate of corporate scandals, such as the financial collapse of Enron, has only heightened the left's distrust of business and the feeling that corporate commitment to CSR only runs skin-deep. Before its bankruptcy, Enron used to win plaudits for its supposedly enlightened CSR strategy.

Friends of the Earth, the environmental pressure group, argues that governments must adopt binding social and environmental rules because a voluntary approach does not "provide strong incentives for compliance to counter-balance the financial incentives for non-compliance." The environmental group concluded in its response to the Commission's green paper that: "We remain very concerned that CSR may be used as a convenient excuse by some companies to undermine necessary legislation and regulation that supports sustainable development."[12] Other NGOs, such as Oxfam and Amnesty, are more supportive of voluntary CSR initiatives, at least in the short-term. But they argue that government backing for CSR should only be a first step towards regulation. These groups fear that a purely voluntary approach would enable businesses to dominate the social and environmental agenda at the expense of other stakeholders, such as employees and developing country governments.

12 Friends of the Earth, 'Submission on the Commission's green paper on CSR', December 2001.

The case for CSR

CSR advocates – whether companies, governments or the rapidly expanding CSR consultancy industry – have principally responded to their critics by stressing the 'business case'. They argue that a company which employs an effective corporate social responsibility strategy can increase its long-term profits, even if initially it has to bear higher costs. As the European Commission suggests in its green paper: "There is a growing perception that sustainable business success and shareholder value cannot be achieved solely through maximising short-term profits but instead through market-oriented yet responsible behaviour."

In its simplest form, CSR can help protect a company's bottom line through improved public relations. Many major companies, especially in the consumer sector, are highly dependent on their brand name for their long-term success. Consumer boycotts of leading brands can cause lasting damage to a company's profits. In recent years, campaigners have successfully forced global companies such as Gap, Levi Strauss and McDonalds, to raise labour standards in their overseas suppliers, or improve their environmental record. Shell even changed its mission statement to read that the company should pursue "acceptable levels", rather than maximum profits.

Equally, companies might employ CSR policies to help manage other risks. In particular, companies with a poor environmental or health and safety record are increasingly vulnerable to lawsuits and fines. The British government is considering amending company law to compel firms to state in their annual report if environmental or social issues pose a risk to the company's financial outlook. Some businesses also stress that a CSR strategy can have a positive impact on corporate productivity. For instance, Watson Wyatt Worldwide, a recruitment company, argues that good CSR policies help companies recruit and retain high quality staff, raising overall productivity levels. In a 2000 survey, Watson Wyatt found that companies where employees rate integrity highly achieve financial returns of 101 per cent over a 3 year period, compared with 69 per cent in companies where this is not the case.[13]

[13] *Dayton Fandraay, 'The ethical company; corporate social responsibilities', Workforce, December 1st 2000.*

The Co-operative bank in Britain is one of the first companies to seek to quantify the profits generated from adopting CSR policies. The company claimed that between 15 and 18 per cent of its profits in 2001 derived directly from its ethical stance. Moreover, Co-op said that around 20 per cent of its current account holders had chosen to bank with the company specifically because of its environmental and ethical approach.

Co-op, however, is a niche operator which bases its marketing strategy on its ethical stance. Mainstream businesses find it far more difficult to quantify the extra profits generated from adopting CSR policies. Forum for the Future, a British think-tank, has attempted to calculate the long-term financial gains for companies

employing a CSR strategy.[14] The Forum's report concluded that "on balance" there is a positive link between adopting CSR policies and raising shareholder returns. But the report added: "The evidence for a link between improved corporate responsibility and improved financial returns is mixed. Studies suggesting a universal correlation – that CSR always pays – have not been supported by later research". Thus, the business case for firms to adopt CSR remains unproven. Only the long-term success of companies which integrate CSR policies into their business strategies would convince detractors, such as Wolf and Henderson, that CSR was not ultimately an unsustainable economic burden.

[14] *Forum for the Future, 'Sustainability Pays', CIS, 2002.*

The business case for CSR provides an important, if not fully proven, incentive to companies to consider adopting socially and environmentally responsible policies. But it is not the key reason why governments should encourage the spread of CSR.

Businesses readily argue that social and environmental regulations too often undermine economic competitiveness. Legislation may even prove ineffective, since companies find ways to circumvent new laws or even relocate abroad. The Confederation of British Industry (CBI), for instance, supports good employee-employer consultation mechanisms. But the CBI opposes social legislation such as an EU workplace consultation directive, which compels larger businesses to set up a system of work councils. It argues that the directive raises costs for no good reason. The CBI also claims that many companies will only grudgingly comply with the new law, and that it will prevent firms from developing innovative new methods of workplace consultation, such as using the internet to communicate key decisions to employees.

Many national governments and the European Commission are increasingly sympathetic to claims that 'one-size fits all' regulation is not always the best way to solve complex environmental or social problems. Anna Diamantopoulou, employment and social affairs commissioner, made precisely this point in a speech given in Brussels in October 2000 to the American Chambers of Commerce:

> Voluntary action can make life easier for legislators too. Economies and societies are far more fluid than in the past. The difficult challenge is to maintain that fluidity dynamic while protecting people's human rights and safeguarding hard-won social standards. That requires a flexibility and lightness of touch that is not always possible with legislation.

In one sense, the critics of voluntary CSR are correct: it is not a panacea for all the world's social and environmental problems. Governments and international organisations will need to continue to enforce minimum social and environmental standards through legislation. However, many governments, and indeed many companies, aspire to standards above the legal minimum – but they accept that prescriptive law is not always the best way of achieving these goals. Thus, businesses could play a crucial role in raising standards, while enjoying the maximum freedom for action.

Governments are not abdicating their responsibilities and permitting unaccountable businesses to take 'political' decisions by encouraging the spread of CSR, as some critics have argued. The definition of what is, and is not, political action seems arbitrary. It is not clear why a company's decision to improve its environmental or social record is any more or less 'political' than a 'business' decision to invest in environmentally sensitive regions or unstable countries. Equally, CSR critics, such as Henderson, are inconsistent in their analysis of corporate power. On the one hand, they claim that businesses do not have the means to tackle social and environmental problems. On the other hand, they suggest a small cabal of multinational companies – in alliance with pressure groups – will be able to impose their CSR agenda on elected governments and reluctant competitors.

Above all, governments continue to set the legislative framework for the corporate sector. At times, they may choose to encourage

businesses to meet voluntary goals, such as a reduction in energy usage, as part of their environmental or social strategy. Governments may equally decide to promote corporate social responsibility. Governments still have a choice: if they decide that corporate social responsibility is not helping to meet their social and environmental goals, they can always resort to legislation.

3 Public policy and CSR in Europe

European Union governments – such as Britain, Denmark and the Netherlands – are leading attempts to devise a public policy approach to CSR. However, there is as yet no clear 'European' approach to corporate social responsibility. Individual member-states have their own specific policy priorities. These range from dealing with labour market problems, to improving the behaviour of multinational companies in developing countries, reflecting both the overriding concerns of their electorates and the structure of their business sectors. Moreover, a number of EU countries – particularly those with highly developed regulatory systems – have until recently shown little interest in, and sometimes outright hostility to, CSR.

A global focus

The British and Dutch governments have promoted CSR as a means of tackling problems caused by multinationals in developing countries. A disproportionately large number of European multinational companies, working in politically sensitive sectors such as oil and pharmaceuticals, are based in these two countries. Both countries are also home to powerful and vocal NGOs such as Oxfam and Novib.

Indeed, Britain is the first, and to date, the only government to have appointed a minister with specific responsibility for overseeing corporate social responsibility – a post held at the time of writing (June 2003) by Stephen Timms. First appointed in 1999, the minister is based in the Department of Trade and Industry (DTI). British businesses have mainly welcomed the new appointment. However, regular government reshuffles, which have resulted in three politicians holding the post in as many years, have so far diminished the effectiveness of this initiative

The British government's forays into CSR are not confined to the DTI. For instance, the Department for International Development helped to launch an ethical trading initiative in 1997. The initiative, which has attracted the support of companies such as Levi Strauss, Safeway and Marks & Spencer, sets out a series of guidelines for businesses in their dealings with developing country suppliers. An independent body monitors adherence to the guidelines and can expel businesses which breach them. The Foreign and Commonwealth Office, meanwhile, teamed up with the US State Department in 2000 to devise a statement of ethical principles for extractive industries, such as mining and oil. The two governments were concerned about the complicity of multinationals in the abuse of human rights in countries such as Colombia, Nigeria and Burma. So far BP, Texaco, Rio Tinto and Shell have endorsed the principles, although Exxon-Mobil, the world's largest oil company, has not signed up. Human rights campaigners have criticised the absence of Exxon and argued the statement of principles is toothless because of the lack of enforcement mechanisms.

The Dutch government has also sought to foster fair trade initiatives. More ambitiously, the Dutch have linked the provision of export credit guarantees – used to underwrite orders abroad – with corporate social responsibility. In December 2000, the Dutch Parliament voted to tie export credits, and access to other trade subsidies, to compliance with the OECD's guidelines for multinational companies in developing countries (see next chapter). Businesses have complained bitterly that the Dutch government is effectively making the voluntary OECD guidelines compulsory. The Dutch government has retorted that since no company is obliged to apply for state subsidies, the compliance clause could hardly be described as compulsory.

The Belgian government has backed an even more far-reaching 'fair trade' labelling initiative. In January 2002, the Belgian parliament

passed a law establishing a government-backed labelling system for products manufactured by companies which adhere to International Labour Organisations (ILO) labour standards. The scheme includes a monitoring body which has the power to remove the label from companies found in breach of the ILO guidelines.

The Belgian government insists the new scheme is entirely voluntary and that no product will be excluded from the Belgian market because it does not meet the label's social criteria. However, developing countries claim the scheme is thinly disguised protectionism, because it discriminates against exporters which lack the resources to prove their adherence to ILO laws. In effect, wealthier (mainly western) companies which can meet the ILO's rules will gain an unfair advantage. As a result, a number of developing countries are taking a case against the scheme to the World Trade Organisation. At the same time, the European Commission is investigating whether the labelling scheme breaches either single market legislation or the EU's international trading commitments.

A community approach

Denmark is also actively developing a public policy approach to CSR. However, the Danish government has focused its efforts on tackling domestic issues such as labour market exclusion and local environmental problems.

In Denmark, government attempts to harness private sector help in tackling labour market problems date back to the late 1980s. The government wanted to reduce the size of the public sector – which then accounted for a third of all employment. The Danish government hoped private companies would absorb many of the public sector job losses. But it did not want to undermine the country's highly flexible labour market system – there is virtually no legislation in Denmark on the hiring or firing of employees. Instead, the government decided to look for voluntary initiatives from businesses, based around the principle of corporate social responsibility. In particular, it encouraged partnerships between businesses and the country's municipal councils, which are directly responsible for the provision of many state services.

The strength of Denmark's economy over the past decade has ensured that unemployment is now well below the EU average, at around 4.7 per cent. But the Danish government has continued to promote voluntary labour market initiatives as a means of tackling pockets of exclusion, especially among immigrants or people with learning or physical difficulties. In 1999, the Danish government made it compulsory for all local authorities to establish a 'co-ordinating committee for preventative labour market measures'. These committees work with local businesses to promote employment. For instance, the town of Viborg has attempted to encourage local companies to hire workers with learning or physical difficulties through a system of 'sheltered jobs'. The local authority pays part of the worker's salary, in effect compensating businesses for the reduced working capacity of the new employees.

The Danish government has also developed a social index to help companies monitor their performance on social issues. Businesses are able to benchmark their performance against similar companies and can use the index in discussions with stakeholders. But companies are under no obligation to adopt the index and do not have to reveal the results to the public. Equally, the Danish government introduced a system of green accounting in 1995. The system made it compulsory for 1200 heavy polluting companies to publish details of their environmental performance, while a further 200 companies have chosen to follow the same system voluntarily. The government has not prescribed how these accounts should be produced, other than to specify that they must include a description of the business and the main polluting activities. However, the green accounting scheme is under constant review and the long-term aim is to develop a comprehensive system, rather like an environmental tax return, to help companies improve their environmental record.

Lingering doubts

Not all EU member-states have adopted CSR policies with enthusiasm. Germany, Austria, and to a lesser extent France, remain sceptical as to whether corporate social responsibility can help to tackle social and environmental problems. Indeed, in some European countries there is a lingering suspicion that CSR is an unnecessary Anglo-American import which, with its emphasis on voluntarism, represents an attack on the traditional legally-based social model. Trade unions in these countries are especially unenthusiastic about the spread of CSR across Europe, fearing that it could actually lead to a dilution of their hard-won workplace rights.

Businesses and politicians in Germany and Austria, for instance, argue that their domestic law already requires companies to act in a socially responsible manner. They point to the presence of employee and other stakeholder representatives on German two-tier boards, as an example of CSR policies in action. However, some German multinationals, especially those with large US or UK markets – such as BASF, DaimlerChrysler, Siemens and Volkswagen – have endorsed global CSR guidelines like the UN global compact (see next chapter).

Moreover, governments and businesses in the Mediterranean countries such as Italy and Spain have not yet widely embraced CSR. A high proportion of businesses remain in family ownership and companies have traditionally adopted a paternalistic approach to employees and the local community. The Italian government, for instance, in its response to the Commission's green paper, listed a wide array of philanthropic behaviour already undertaken by Italian companies. However, it provided little evidence that Italian businesses consider corporate social responsibility as an important part of their business strategy.

Increasing transparency: a common EU trend

There is some evidence that EU member-states are beginning to think alike on CSR, despite these differences of approach. For instance, fair-trade schemes now operate in 11 EU member-states, including 'laggards' such as Italy. Equally, several EU member-states have recently introduced legislation designed to make companies or pension funds provide details of their social and environmental policies. The British government began the trend by amending pension fund reporting rules in July 2000. All UK pension funds are now required to disclose whether they take into account social, ethical and environmental issues when deciding on their investment strategies. The new regulation is not prescriptive: funds can simply state they have no CSR policies. But this simple change in the law has encouraged major British funds to reconsider their approach to social and environmental factors. Trade bodies, such as the British Bankers' Association and the Association of British Insurers, have teamed up in the Forge Group to devise detailed reporting guidelines for the financial services sector.[15]

[15] The Forge Group, 'Guidance on corporate social responsibility management and reporting for the financial services sector', 2002.

Other EU member-states have subsequently followed the British example, and in the case of France, even taken the disclosure approach one step further. The German and Belgian governments have both passed regulations requiring their pension funds to supply details of their ethical and environmental stance. In 2001, France passed a new law requiring any company, which publishes an annual report, to include a summary of the social and environmental impact of their business. The new rules require firms to provide details of their use of water and natural resources; energy consumption and greenhouse gas emissions; the impact of their business on bio-diversity; any efforts the company is making towards reducing environmental risks; whether the company educates employees about CSR issues; and details of co-operation with trade unions, civil society and communities.

The case for a pan-European approach

As far back as 1993, the European Union began to debate whether

it should develop a strategy to promote corporate social responsibility. The Commission published a paper which appealed to businesses to help tackle social exclusion. In response to this plea, a number of European business leaders and the Commission teamed up to establish CSR Europe in 1996. CSR Europe, supported by 60 member companies, now provides links between 15 member-state based CSR organisations, representing around 1200 European businesses.

But it is only in the last three years that corporate social responsibility has become a key issue for the Union. EU heads of government made CSR a specific EU policy commitment at the Lisbon summit in March 2000, appealing to companies' "corporate sense of social responsibility regarding best practices on lifelong learning, work organisation, equal opportunities, social inclusion and sustainable development". At the Gothenburg summit in June 2001, member-states called on the Commission to publish a paper detailing possible further policy steps. The Commission responded to this request by publishing a green paper on CSR in July 2001. After a further period of consultation, the Commission issued a communication in July 2002, detailing its next steps including the establishment of an EU CSR forum (see next chapter).

However, business groups and even some European governments are not yet convinced the EU should actively develop CSR policies. As already discussed, member-states have approached the issue in very different ways. Even member-states which have actively promoted CSR policies are sceptical about the need for the EU to play anything more than a very limited role. In its response to the Commission's green paper, the British government argued that a "separate EU approach may often not be required and the EU must show clear added value before taking action."

Many European businesses have also expressed concern that the Commission's new-found interest in CSR may simply be an attempt to reintroduce stalled social and environmental legislation via the back door. The social and employment affairs directorate-general – rather than the enterprise DG – took the lead on the CSR green paper, heightening these suspicions. Moreover Anna Diamantopoulou, the employment and social affairs commissioner, initially framed the debate about CSR within the context of workplace disputes – such as Marks & Spencer's controversial decision to shut its French and Belgian operations in 2001. The European Round Table of Industrialists (ERT), a group of leading businessmen, has warned that if the Commission attempted to impose a European approach to CSR it would add to the already high costs of doing business in the EU.

Business leaders have also expressed concern that the EU may use CSR as a means of promoting 'European values' at a global level. The ERT, for example, cautioned the Commission against promoting a European framework for CSR as a 'world model':

> Any such model based on European values would be unacceptable to the rest of the world: for the US and other western nations it might be deemed arrogant, intrusive, expensive and unnecessary, while for developing countries it could also smack of protectionism, paternalism or even colonialism.[16]

[16] *European Round Table of Industrialists, ERT position on corporate social responsibility and response to Commission green paper', November 2001.*

The EU should certainly not have sole competence for the development of CSR policies. The debate on CSR ranges from local communities to the global discussion about the role of multinationals in developing countries. But the EU can and should play a major role in devising CSR policies for three good reasons.

First, the EU provides a natural arena for member-states to share their experiences of CSR policies and help spread best practice. The debate about CSR cuts across a number of policy areas, such as the environment, social affairs and labour markets, where

member-states are already committed to using the open method of co-ordination – the EU's system of target-setting, benchmarking, and peer pressure. The fact that so many member-states have rapidly adopted a pension fund disclosure requirement suggests that the open method can yield results.

Second, the EU already has the power to make laws in a number of areas directly related to CSR, such as trade with developing countries and the environment. Member-states which want businesses to help tackle social and environmental problems need to make that case at the European level.

Moreover, EU laws often make it difficult for member-states to adopt CSR measures unilaterally. As already discussed, the Belgian social-labelling scheme may fall foul of EU single market rules. The EU needs to consider when government intervention to encourage CSR is permissible, especially in relation to the use of public procurement contracts or tax incentives (see chapter four).

Also, the EU is the natural interlocutor for discussions on CSR at the global level. The EU already attempts to speak with one voice on related issues such as trade, human rights and the environment. Member-states accept that these are problems they can tackle better together than through national measures alone.

Finally European multinational companies are at the forefront of promoting CSR policies, particularly in relation to the developing world. There is little hope of reaching global agreement on issues such as the liability of multinational subsidiaries for environmental damage, or the inclusion of ILO labour standards within trade agreements, unless the EU adopts a united position. The alternative is that third countries, most notably the United States, will continue to pass their own laws to enforce corporate social and environmental responsibility – sometimes damaging the interests of European businesses in the process.

The fact that the EU should develop a more coherent approach towards tackling social and environmental issues at a global level does not mean the Commission will attempt to force a 'European model' on the rest of the world. The evidence of the world sustainable development summit in Johannesburg in September 2002 shows that the EU will fight against the introduction of binding social and environmental legislation for multinational companies. European companies have little to fear from the EU playing a greater role in the development of corporate social responsibility.

4 Towards an EU strategy for CSR: 'soft' policy measures

Although a decade has passed since the EU first discussed the subject of corporate social responsibility, the Commission is only now beginning to develop common policies for the Union to follow. In October 2002, the Commission formally launched a European 'multi-stakeholder forum' on CSR. The forum – which brings together around 40 representatives from businesses, unions, NGOs and academia – will lead further discussions on four topics: spreading CSR best practice; development and trade; fostering CSR among small and medium-sized enterprises (SMEs); and the convergence and transparency of CSR reporting and verification.

The forum will meet twice a year in plenary to agree on broad EU guidelines, rules of procedure and work programmes. Specialist working groups will meet more frequently to report on more detailed issues. The Commission intends to review the work of the forum in 2004, and may renew its mandate or recommend specific new policies to member-state governments.

The forum could play a useful role in forging a consensus about future EU approaches to CSR. However, the EU should also consider two other institutional innovations to ensure it has suitable mechanisms in place to develop policy over the next few years. First, member-states need their own arena to discuss public policy approaches to CSR – they only have observer status on the new forum. The EU should consequently set up a CSR working group, consisting of the senior officials overseeing CSR in member-state governments, which should report to the new competitiveness council.[17] The working

[17] *The EU decided to merge the internal market, industry and research councils into a single competitiveness council at Seville summit in June 2002.*

group should conduct a peer review of member-state CSR policies and assess EU initiatives in this field, paying particular attention to the quality of the forum's work. The committee, in conjunction with the Commission, should also prepare a list of national CSR targets. For example, member-states could set targets for the number of companies which account for their social and environmental activities in their annual reports.

Second, the Commission needs to re-consider how it organises its own work on CSR issues. The directorate-general for social affairs and employment prepared the green paper on CSR. Although DG enterprise shared responsibility for drafting the subsequent communication, the perception remains that DG social affairs is the 'lead' department on CSR. Business organisations are concerned that if DG social affairs assumes the lead on all CSR issues, the EU will focus heavily on labour market issues and may even propose new regulations as part of its strategy. As already discussed, Anna Diamantopoulou, did little to alleviate these concerns by framing the green paper in the context of giving workers a greater input into corporate restructuring decisions. In contrast, the British government reassured British companies by placing its own CSR minister within the Department of Trade and Industry. However, some businesses complain that the British government is still failing to effectively co-ordinate its CSR activities, despite the appointment of a lead minister.

UNICE, the EU employers' federation, has suggested that the Commission should make the Commission president directly responsible for CSR, to ensure the necessary level of co-ordination. The Commission should establish a dedicated office for CSR within its secretariat-general. The relevant directorates-general, such as social affairs, enterprise and the environment, could then second staff to this new office.

It is questionable, however, whether CSR will ever be a priority for a Commission president. The president is unlikely to find the time to

effectively co-ordinate CSR policies while also handling major issues such as institutional and economic reform. Instead, the enterprise commissioner should take full control of the EU's work on CSR. The enterprise commissioner is best placed to co-operate closely with member-states on CSR issues through the competitiveness council. Moreover, the enterprise directorate is experienced in the use of 'soft' policy tools and the open method of co-ordination. For example, DG enterprise is leading work on reducing the regulatory barriers to the creation of new businesses by encouraging member-states to set national targets and share best practice.[18] With that DG in the lead, businesses would not have to worry that the Commission's involvement would automatically lead to a raft of new legislation. The other relevant directorates-general should then second staff to the DG enterprises's new team.

[18] *Alasdair Murray, 'The Lisbon Scorecard III: the status of economic reform in the enlarging EU', CER, March 2003.*

Initially, the enterprise commissioner should develop the EU's strategy for CSR in four main areas: reporting and verification; social labelling; socially responsible investment; and spreading CSR among small and medium-sized enterprises.

Key CSR codes and standards

★ **UN Global Compact**

The UN Global Compact, which was launched in 1999, is based on nine internationally accepted principles of labour standards, human rights and environmental protection. The Compact is aimed at major multinationals, particularly those operating in developing companies. The UN hopes to attract 1,000 signatories. The Compact currently has no verification mechanism – companies can simply demonstrate their adherence to the code by publicising their support on the UN's website and in their annual reports. However, the UN is aiming to establish an advisory board to monitor the performance of firms which endorse the Compact. Some NGOs are also critical of a lack of government representation and wider consultation ahead of the Compact's launch, claiming the UN is becoming too cosy with big business.

★ **ILO tripartite declaration of principles governing multinational enterprises and social policy**

The declaration, which dates from 1977, provides guidelines for governments, businesses and workers on issues such as employment, training, conditions of work and industrial relations. It does not, however, tackle environmental or ethical issues, such as bribery. Although the declaration is not binding, the ILO does review its implementation and examines disagreements over its application. Critics, however, argue the declaration is ambiguous and has been largely ineffective in raising labour standards, particularly in developing countries.

★ **OECD guidelines on multinational enterprises**

The OECD guidelines, which were first introduced in 1976, represent the most ambitious attempt to develop a global code of corporate social responsibility. They are comprehensive, covering issues such as child and forced labour, the environment and technical problems such as how to encourage suppliers to major companies to follow the guidelines. The OECD's initiative is public policy led: governments rather than businesses agree to encourage the implementation of the guidelines. Each OECD member government must establish a national contact point to publicise and monitor breaches of the guidelines. However, not all governments have taken this requirement seriously, often giving the job to a junior or under-resourced official.

★ **Private initiatives**

A number of private organisations have also devised CSR codes of conduct. The former anti-apartheid activist, the Reverend Leon Sullivan, promotes the Global Sullivan Principles, a set of guidelines for businesses active in the developing world. Companies write annually to Sullivan with details of their commitment to meeting the Principles. Similarly, 'Global Corporate Responsibility: benchmarks' is a business code of conduct developed by an alliance of religious groups in Britain and the United States. The Caux Principles, meanwhile, seek to establish a "world-wide standard for ethical and responsible corporate behaviour".

★ **Global reporting initiative**

The 1999 Global Reporting Initiative (GRI) sets guidelines on how businesses should report details of their economic, environmental and social activities. The GRI is voluntary and does not specify what CSR principles companies should adopt, nor does it monitor compliance. Businesses, NGOs, consultancies and academics were all involved in producing the guidelines. The United Nations Environment Programme has provided some funding, although the GRI remains separate from the UN Global Compact.

★ **Certification standards (SA 8000; ISO 14000; EMAS)**

A number of organisations are developing certification standards based around long-standing systems of quality assurance. For instance, Social Accountability 8000 is a factory-based monitoring and certification scheme designed to monitor labour standards in global manufacturing operations. Social Accountability International, an NGO which conducts factory inspections in developing countries, sponsors the standard. EMAS (eco-management and audit scheme) is a quality assurance scheme for environmental management. The European Commission helped develop and formally endorses EMAS (and indeed applies EMAS to its own activities). Around 4,000 European companies are now accredited with EMAS. ISO 14000 is another environmental management standard, monitored by the International Standards Organisation.

Reporting and verification

One key issue that the EU CSR forum, the Commission and member-states will need to consider over the next few years is whether Europe should develop common guidelines for the reporting and verification of CSR policies, or even make reporting mandatory. CSR advocates argue that clear and consistent reporting guidelines are vital, to enable consumers and investors to distinguish between companies on the basis of their CSR track record. Equally, companies will find it easier to benchmark their own performance against their peers, if reporting is conducted in a consistent and transparent manner.

But EU business groups are adamant that governments should not make reporting compulsory. They argue this would result in businesses only grudgingly complying with the letter of the law. UNICE, the European employers' organisation, claims that if governments determined CSR reporting requirements, it "would turn the voluntary initiatives of companies into a pro-forma exercise, kill creativity and impose significant costs on companies without bringing any of the desired results."[19] Furthermore, business groups argue against government interference on the grounds that only company directors can properly determine what CSR strategy is most suited to their business, and judge whether the information supplied might be commercially sensitive.

[19] *UNICE, 'Corporate social responsibility', UNICE position, December 2001.*

[20] *Kenny Bruno, 'Greenwash +10', Corpwatch, 2002.*

On the other hand, many NGOs and left-of-centre politicians argue that unless standardised reporting is made compulsory, businesses will be able to adopt a 'pick'n'mix' approach, and make unverifiable claims about their commitment to CSR. For instance, Corpwatch, a US pressure group, claims that companies such as Nike and Rio Tinto have signed the Global Compact but continue to violate its principles with impunity.[20]

The proliferation of codes, reporting criteria and verification mechanisms is also prompting confusion among investors and

consumers, and could even damage the credibility of genuine attempts to introduce socially responsible policies. The OECD estimates that there are at least 250 different codes of practice in operation, ranging from those drawn up by individual companies, through sectoral based codes such as the British-US initiative for the extractive industries, to 'global' guidelines such as the UN Compact (see box on page 32).

Such a bewildering array of competing codes, reporting mechanisms and quality assurance standards makes it difficult for policy-makers and NGOs, let alone consumers or investors, to assess the CSR performance of companies. Some businesses, especially those active in sensitive sectors such as oil or textiles, complain that they are pressurised into signing up to each and every new initiative – sometimes with contradictory demands and always at added expense. Nestlé, the food conglomerate, has complained of 'questionnaire fatigue' because of the constant demand for information about its social and environmental performance. Not surprisingly, many companies continue to opt out of CSR reporting and verification altogether.

In Britain, for example, Tony Blair – in a speech made in 2000 – challenged Britain's top 350 companies to produce social and environmental reports. The British government made clear that it favours the voluntary approach by resisting demands from some pressure groups to use the 2001 company law review to make social reporting compulsory. However, the Work Foundation estimated that in 2002 only 4 per cent of listed British companies provided any substantive and verifiable comment on their social performance.

As a result, there is a growing clamour in Britain and other EU member-states to make social and environmental compulsory for listed companies. Compulsory reporting would accelerate a move towards common standards and improve the quality of verification processes. France is so far the only EU member-state to have introduced compulsory reporting (see previous chapter). But the

French approach is already attracting the interest of politicians from other European countries. For example, Linda Perham, a Labour MP, presented a private member's bill to the British parliament in the summer of 2002. The bill seeks to make reporting mandatory for companies with a turnover greater than £5 million. Furthermore, Perham is calling for the creation of a standards board to monitor and verify the quality of corporate reporting. The bill, however, does not have government support and is unlikely to become law.

The European Parliament has agitated for similar legislation at a European level. For example, the committee for employment and social affairs has called on the Commission to amend the forthcoming company law directive to make social and environmental reporting compulsory for all publicly listed companies. The rapporteur, Richard Howitt, has suggested that companies should adopt the Global Reporting Initiative (see box on page 32) as the basis for reporting. The EU's CSR forum could then monitor implementation to ensure companies are adhering to the GRI guidelines. However, a subsequent report from the same committee has taken a less prescriptive approach. The rapporteur, Philip Bushill-Matthews instead calls on the forum 'to recognise the diversity of CSR approaches'.

A number of NGOs are also demanding tougher legislation to ensure that companies pursue socially and environmentally responsible policies. Amnesty and Oxfam, for instance, argue that directors and managers should be made personally responsible for the social and environmental performance of their organisations. The two organisations suggest that EU company law should be amended so that directors undertake due diligence – that is, a formal review – of the social and environmental impact of their businesses.

Friends of the Earth is leading an even more ambitious campaign for compulsory reporting and verification of social and environmental policies at a global level. The environmental pressure group lobbied hard – but unsuccessfully – at the Johannesburg sustainable development summit in September 2002 for a binding multilateral

agreement on corporate accountability. The agreement would include provisions to ensure that:

- ⋆ directors are personally responsible for the environmental and social impact of their business;
- ⋆ CSR reporting is mandatory;
- ⋆ stakeholders can sue companies for the damage caused by a company's environmental or social polices; and
- ⋆ there are sanctions – such as the suspension of share trading – for companies that repeatedly breach the corporate accountability agreement.

The EU, allied with a number of other developed countries, toned down the language on corporate accountability in the final communiqué from the Johannesburg summit. But the issue of a global accountability agreement is unlikely to drop off the agenda in the short-term: Friends of the Earth is calling for a UN conference dedicated to the issue of corporate accountability by the end of 2003.

Finding an appropriate balance

The EU is right to reject the calls from the European Parliament and some NGOs to impose tough reporting and verification requirements on European companies. CSR reporting and verification is in its infancy: there simply is not a tried and tested model. Competing codes, management standards and verification mechanisms need time to prove their worth.

But the EU should gently begin to encourage the convergence of principles, instruments and practices. Many businesses would support European efforts to bring greater coherence to the CSR reporting process, providing the EU does not adopt a prescriptive approach. For example, Michael Goldstein, chairman of Toys 'R' Us and a representative on the board of Social Accountability International, has argued that CSR groups should work together to try and agree on a single globally applicable code.

Thus the EU should recommend that businesses use established and respected codes, such as the OECD guidelines, rather than devise their own rules of conduct. The new CSR forum should make a review of the existing codes a priority, and highlight those which provide a thorough and effective basis for CSR reporting. The forum should also consult with companies about their experience of applying the leading codes and recommend changes to the relevant supervisory body. But the EU should resist the temptation to add to the proliferation of guidelines by devising its own code of practice.

Moreover, the EU can play a constructive role in raising the quality of CSR verification processes. NGOs and even some businesses are concerned that the major accountancy firms could quickly monopolise this new and potentially very lucrative form of business. For instance, The New Economics Foundation, argues that verification is vulnerable to 'managerial capture' – accountancy firms, for fear of losing lucrative audit and consultancy contracts, verify only those CSR policies approved by management. For example, a recent study of factory condition inspections in Asia found that accountancy firms based their analysis almost exclusively on discussions with the management, rather than asking employees for their experiences.[21]

[21] *Rhys Jenkins, 'Corporate codes of conduct: self-regulation in a global economy', United National Institute for Social Development, Paper 2, 2001.*

However, the major accountancy firms also possess the greatest experience in CSR verification and auditing procedures. The EU should not attempt to ban them from competing for CSR contracts. Rather, member-states should make sure accountancy firms follow the same rules of conduct when bidding for CSR-related work that they do for other non-audit business, such as consultancy services. Meanwhile, the EU's CSR forum should

encourage accountancy firms and other verification groups to develop common standards – based around the GRI – much as the International Accounting Standards Board had devised a common set of financial reporting standards.

A purely voluntary approach to reporting will not ensure the rapid spread of CSR or the convergence of standards. Thus, the EU should consider making one minor reform to company reporting law, and require quoted European businesses to provide a statement of their CSR policies in their annual report. The EU should adopt a minimalist approach, and unlike the French government, make no attempt to define what information companies must provide. Indeed, a company could simply insert a line in its annual report stating that it does not have any policy on CSR.

But such a reform would greatly enhance the transparency of CSR reporting. Investors and consumers, who are concerned about social or environmental issues, could make a more informed choice when buying shares or products. Company directors would at least have to discuss the social and environmental impact of their business before signing off their annual report. Moreover, a minimum reporting requirement should help accelerate the spread of CSR best practice and the convergence of standards. At present, leading business proponents of CSR use a variety of means to report on their activities, including dedicated publications in addition to their annual report. Many of these extra publications have merit, but they make it difficult to compare corporate performance. The EU should encourage more consistent CSR reporting by obliging firms to provide some basic information within their annual reports.

Product labelling

The market for socially and environmentally responsible products – ranging from coffee to clothing and toys – has grown rapidly in recent years. For example, organic food is now common across Europe and the market is estimated to be worth more than £600 million in the UK alone. CSR Europe estimates that there are around 240 fair-trade and eco labels operating accrediting schemes across the EU.

But in most sectors, companies which sell fair-trade or environmentally friendly products remain niche players. For example, Ecover, a Belgian detergents company, started producing environmentally friendly cleaning products in 1979. Yet in 2001 the company's turnover stood at just €8 million, less than 1 per cent of the total European market for detergents.

Indeed, many businesses question whether consumers really want ethical products. Consumer surveys certainly suggest a gap between aspirations and actual purchasing habits. For instance, a recent survey by the UK's Co-operative bank found that 75 per cent of consumers considered taking ethical factors into account when making their purchases. However, ethical sales account for just 1.6 per cent of the UK consumer products market. In January 2003, Oxfam – which pioneered sales of fair trade products in its own shops in the 1960s – revealed it was scrapping its own ethical label because of lack of demand.

Socially responsible products have not yet made major in-roads into European markets for a number of reasons. Undoubtedly, the costs of launching new products in mature consumer markets can prove prohibitive for relatively small companies such as Ecover. Moreover, the plethora of purportedly socially responsible labels is prompting confusion, and sometimes a degree of cynicism, among consumers. While some labels such as the British Soil Association organic certificate involve rigorous testing, others simply require companies to state that they are adhering to certain standards.

CSR campaigners would like to see EU governments intervene in the market in support of ethical products and investment funds. They argue that governments can help to give ethical initiatives credibility, and prevent new products from being crowded out of

the market by powerful established players. As the previous chapter showed, a number of member-states have made some modest efforts to support socially responsible products. The British and Dutch governments have helped set up fair trade initiatives while Belgium is attempting to introduce a state-endorsed labelling scheme.

The European Parliament has called for more radical action at the EU level. Some MEPs want the EU to introduce a European social label based on compliance with human and trade union rights, a positive working environment, high training standards and equal opportunities. However, businesses and non-EU countries would undoubtedly challenge any such move under both World Trade Organisation and single market rules. Social and environmental audits are a costly and time-consuming process and many smaller businesses lack the resources to prove they adhere to the necessary standards. Moreover, certain products are easier (and cheaper) to monitor than others. For example, it is far simpler to verify labour standards for a coffee produced on a single estate than for an instant blend which includes beans from plantations all over the world. The EU could be accused of handing some businesses an unfair advantage if it backed a labelling scheme.

The EU should instead explore ways to improve the quality and reach of private sector schemes. The Commission and the EU CSR forum should encourage representatives of existing schemes to discuss the development of European-wide social labels. Such a move would help to cut costs for businesses which wish to adopt social labelling and raise standards. In the longer term, the EU should encourage a dialogue aimed at developing some global labelling standards, complete with monitoring mechanisms, which adhere to WTO rules.

Socially responsible investing

A growing number of European investment and pension funds consider a company's social, ethical and environmental record when they choose where to allocate their investments – a practice known as socially responsible investing (SRI). SRI funds aim to use their share ownership rights to influence corporate behaviour – whether by supporting start-up companies which develop green technologies, investing in blue-chips which pursue CSR goals, or selling shares in firms which fail to meet high social or environmental standards.

There are around 280 investment funds in the EU which pursue a dedicated ethical approach to investing. The Sustainable Investment Research International Group estimates that at the end of 2001 SRI funds managed some €14.4 billion, a 30 per cent increase since 1999. Three countries – the UK, Sweden and the Netherlands – account for nearly 60 per cent of the funds under management. In the UK alone, ethical investment funds are now valued at around £3.3 billion, or 5 per cent, of all mutual fund investments. In addition, UK pension funds claim to take social and environmental factors into account when investing an estimated £200 billion, or 60 per cent of the total UK pension fund market – and that is a direct result of the UK government's reform of the pension fund disclosure rules (see previous chapter).

Nevertheless, Europe continues to lag behind the US. The Social Investment Forum estimates that between 1999 and 2001, SRI funds grew by more than one third to over $2 trillion, or around 13 per cent of the US market. Powerful US pension fund managers such as Calpers, the Californian state pension fund, increasingly use their financial power to ensure that companies improve their social and environmental policies. Similarly, the New York City pension fund, which controls nearly $49 billion of assets, has tried to persuade companies such as McDonald's, Starbucks, and Wal-Mart to adopt the SA8000 labour standard. In the EU, ABP, the Dutch civil service pension fund (Europe's largest single fund), is increasingly using SRI strategies for its own investments.

However, NGOs and many CSR campaigners claim that funds are often not very rigorous in their choice of investments. For example, NGOs such as Friends of the Earth are critical of the FTSE4Good share index, which was launched by the FTSE group in 2001, claiming its qualifying criteria are too lax. FTSE4Good is an 'ethical' index for UK-listed companies which have adopted environmental reporting, policies on equal opportunities and human rights, and a commitment to at least two of the ILO's core labour standards.

NGOs welcomed the philosophy behind the establishment of the new index. But they argued the qualifying criteria were too lax – more than 300 companies were admitted to the index at its launch. Moreover, three-quarters of Britain's largest 100 companies were instantly admitted to the FTSE4Good index. Some major companies – including the Royal Bank of Scotland, Tesco and Marconi – were initially left out of the index. However, these companies complained about their exclusion and FTSE4Good subsequently amended its rules to allow these companies into the index.

Critics claim that the FTSE4Good index does little to reward companies for improving their social and environmental record. Rather, it simply excludes businesses which are active in 'dirty' sectors such as defence, mining, nuclear power and tobacco. For instance, hi-tech companies are automatically included in the FTSE4Good index because they are not regarded as major polluters. The index does not consider their energy usage record or whether they are helping to tackle the problem of disposing of electronic waste, such as outdated mobile phones. Ironically, the FTSE4Good index declined by more than the market as a whole in its first year of operation – the excluded tobacco, defence and mining stocks proved the most resilient performers in the global stock market downturn.

The EU should not try and adopt its own standard for socially responsible investment funds, but rather encourage existing, national schemes to better co-ordinate their activities. Some consolidation of standards is likely to occur anyway as an increasing number of investment funds market their wares across the EU. For instance, in the UK, fund management companies need pay only a small fee to the UK social investment forum to advertise the fact that they take SRI policies into account. However, the Forum does not monitor whether funds are fulfilling their promises – its only power, and one that has never been used, is to revoke membership. In contrast, the Dutch social investment forum (VBDO) sets out 14 strict criteria for SRI funds to follow and carries out regular assessments. British funds are now under pressure from CSR campaigners to consider developing their own rules based on the Dutch model. The European Commission is also lending its support to the European Sustainable and Responsible Investment Forum, which was set up in 2001 with the express purpose of spreading best practice in socially responsible investing across the EU.

But there is a strong case for the EU to take action to compel pension funds to state their ethical policies. The Commission is already examining a number of related company law issues as part of its financial services action plan. Such a reform would only involve a relatively straightforward amendment to existing law.[22] As the previous chapter demonstrated, a number of member-states already require pension funds to outline their investment strategies. Moreover, the EU is attempting to develop a more integrated market in pension funds. A reform of this nature would enhance transparency by ensuring that pension funds provided common information in all EU member-states. Investors should be able to discover the stance of their pension fund on social and environmental issues, if they so wish. However, the EU should not use legislation to prescribe how pension funds report on their ethical policies or compel funds to adopt an ethical stance.

[22] *The financial services action plan consists of 44 measures, including directives on reporting requirements and pension funds, designed to create a single market in financial services by 2005.*

Spreading CSR among small and medium-sized enterprises

The great majority of CSR policy guidelines are focused on the needs of multinational companies. Multinationals have the necessary resources to develop far-reaching CSR strategies. However, if CSR is to become a common business practice rather than the preserve of a few household names, it is necessary to develop policies that are also suitable for small and SMEs. The European Commission estimates that there are around 18 million small enterprises across the EU, employing more than two-thirds of Europe's total workforce.

Good Corporation, a UK based consultancy which specialises in CSR strategies for smaller businesses, suggests that 75 per cent of the EU economy in terms of GDP is "outside the mainstream" of CSR practice. In reality, many SMEs already carry out non-core activities that could be described as a form of corporate social responsibility – although they rarely employ the term. A Commission report in 2002 found that 50 per cent of smaller companies undertake some form of socially and environmentally responsible activities.[23] SMEs are aware of the need for their business to enjoy a good name in the local community. But few managers or owners consider CSR as an integral part of their business strategy.

[23] *European Commission, 'European SMEs and Social and Environmental Responsibility', Observatory of European SMEs, No.4, 2002.*

The EU's CSR forum should therefore press ahead with its planned review of CSR and SMEs. A CSR framework for SMEs needs to take into account their more limited resources: many smaller companies struggle to comply with existing labour market, environmental, and health and safety legislation. Indeed the Commission suggests that the majority of SMEs are unsure whether they fully meet all the requirements of existing law. Moreover, most SMEs do not have the resources to support a full-time staff member with responsibility for CSR, nor to devise company specific policies. Thus trade associations, which represent SMEs, have a key role to play in helping smaller companies consider the importance of CSR to their business. For instance, Federcasse, an Italian financial services trade association, has developed social reporting guidelines for its 470 small bank members. Federcasse suggests that small banks should increase their activities in the local community, to help distinguish their local businesses from national and international competitors.

The EU's forum should promote links between the small business trade associations and encourage the exchange of best practice. Larger companies could also play an important role in encouraging the spread of CSR down the supply chain. Multinationals should share their experience of dealing with social and environmental issues with their small-scale suppliers. But large firms must not abuse their economic clout to force smaller suppliers to make inappropriate social and environmental commitments.

5 Towards an EU strategy for CSR: fiscal incentives and international law

The previous chapter outlined how the EU could encourage the spread of corporate social responsibility using 'soft' policy measures, such as the exchange of best practice or greater disclosure. But the EU also needs to consider whether member-states should be permitted to directly encourage the spread of CSR through fiscal incentives or government procurement policies. At present, EU rules may prevent member-states from offering financial aid to companies which adopt socially and environmentally responsible policies.

Fiscal incentives

EU member-states are exploring the use of fiscal incentives to encourage businesses to adopt CSR. The Dutch government, for example, has tied export and credit guarantees to compliance with the OECD guidelines on multinational companies (see chapter three). Similarly, Sweden grants some export credits to companies which meet high environmental standards.

A number of non-EU countries are using public procurement contracts to encourage companies to adopt socially and environmentally responsible policies. In the United States, the state of Wisconsin signed an environmental 'co-operative' agreement with Wisconsin Electric in 2001. The local electrical supplier must now prepare an annual environmental performance report, in line with the Global Reporting Initiative's guidelines.

The Italian region of Tuscany is also trying to link procurement to CSR. The Tuscan government has said it will prefer companies that comply with the SA8000 social certification standard (see box on page 33) when awarding contracts. It has also pledged to meet half the costs of acquiring the SA8000 standard for smaller companies.

The EU will need to establish some common guidelines if member-states wish to link public procurement contracts to social and environmental criteria. In particular, the EU needs to consider carefully how member-states might frame socially responsible procurement rules, without discriminating against bidders from other EU member-states or non-EU countries. Member-states shoud mutually recognise the CSR reporting schemes employed by each others' businesses. Otherwise, governments could use compliance with national CSR guidelines in a protectionist manner. The European Investment Bank (EIB), the EU's public lending operation, could provide a model for common procurement guidelines – the EIB already lays down strict social and environmental criteria when making loans.

CSR critics argue that forcing firms biding for government contracts to adopt socially and environmentally responsible policies could drive up costs. But, if governments award contracts to companies which are heavy polluters or adopt irresponsible workplace policies, taxpayers could face an even larger bill in the longer term. Moreover, it would be up to each member-state government to decide whether it wanted to take into account ethical issues, or simply award contracts to those firms which offer the cheapest price.

Some businesses will doubtless object that inclusion of social and environmental factors in public procurement amounts to making CSR compulsory. But, as the Dutch governemnt has argued in regard to export credits, no company is obliged to apply for a public contract. Moreover, if a government is committed to reducing pollution or encouraging better workplace relations, why

should it be obliged to award contracts to companies which do not meet these criteria? EU member-states should at least have the option of exploring whether public procurement policies can be used to promote elements of the CSR agenda.

Equally, the EU needs to review its state aid rules and decide when it is permissible for member-states to use tax breaks to encourage companies to develop CSR policies. Most member-states already offer some incentives for companies to engage in socially responsible policies through tax relief on charitable donations. However, the Commission has frequently objected to more ambitious attempts to provide fiscal rewards. The British government, for example, has struggled to overcome Commission scepticism about two recent tax-breaks for companies investing in deprived areas. The Commission took its time in clearing the UK's community investment tax credit, which seeks to make it financially viable for banks to lend in deprived areas. Banks are offered a 5 per cent tax credit over 5 years, to compensate for the higher lending risks in impoverished regions. The Commission also forced a year's delay to a flagship British government scheme to abolish stamp duty on commercial properties in run-down areas of the UK.

The Commission began a thorough review of its state aid policies in the spring of 2003, and should urgently clarify what forms of targetted aid are permissible. The EU is already broadly committed to redirecting state subsidies towards 'horizontal' objectives, which do not benefit any one company or industry.[24] The Commission's approval of the British scheme to abolish stamp duty provides a useful precedent: tax breaks for community investment seem entirely in line with the EU's revised approach to state aid. The Commission will also need to review whether governments can use differential VAT rates to promote the sale of socially and environmentally responsible products. Forum for the Future, for instance,

[24] *EU heads of government agreed at the Lisbon summit in March 2000 both to reduce and redirect state subsidies for industry.*

suggests that low emission cars could attract a lower VAT rate than their more polluting competitors.[25]

Some campaigners suggest that governments should employ tax incentives to promote CSR in a far more radical fashion. For instance, Simon Zadek, chief executive of AccountAbility, argues that governments should offer corporate tax relief to companies which practice socially responsible policies.[26]

[25] *Roger Cowe and Jonathon Porritt, 'Government's business: Enabling corporate sustainability', Forum for the Future, 2002.*

[26] *Simon Zadek, 'The civil corporation: The new economy of corporate citenzenship', Earthscan, 2001.*

Such a reform would effectively make CSR compulsory and involve full-scale government intervention in the economy: all profitable businesses pay corporation tax. The reform is also impractical: governments would have to develop very prescriptive rules about what did and did not qualify for the tax relief at a time when CSR is in its infancy. How is a government to define rules which equally reward the very different CSR efforts of a multinational and a small company? How can such rules take into account the different needs and approaches of a company which works in a 'dirty' sector, such as mining, against an advertising firm? The likely result is that governments would define qualifying rules which were either impossibly complicated, adding to the regulatory burden of businesses, or so inclusive as to become virtually meaningless – effectively offering a straight reduction in corporation tax.

International law

This pamphlet has focused primarily on non-legislative measures that policy-makers could adopt, to encourage businesses to improve their social and environmental policies. The courts will continue to enforce the laws that define the most basic acceptable standards of corporate behaviour. However, national courts are poor regulators of companies' behaviour overseas. NGOs are concerned that some multinationals escape sanction for environmental damage or the

mistreatment of workers by taking advantage of weak judicial systems, or corrupt officials, in developing countries. NGOs want an international agreement on corporate liability law, but progress on such a complex issue has been slow.

The EU and the United States have made use of WTO rules which permit member countries to take punitive economic action against regimes which do not respect international labour standards. For instance, in 2000, the US suspended duty free access to food imports from Belarus because of that country's failure to uphold workers' rights. The EU now inserts clauses guaranteeing respect for human rights into trade agreements with third parties as a matter of course. Countries that fail to meet the EU's human rights requirements can have their trade privileges revoked.

However, the WTO specifies that sanctions can be employed only against countries, not individual companies which may not comply with accepted labour standards norms. As a result, a number of countries use domestic laws to regulate the behaviour of companies overseas. The United States, for instance, has passed a series of laws that are designed to discourage companies – from any jurisdiction – from investing in 'rogue' states. The design and impact of these laws is very similar to 'ethical' attempts to prevent businesses from investing in countries such as Burma. The Helms-Burton Act seeks to punish any company which has profited from the use of nationalised assets in Cuba. In 2001, the US Congress passed the Sudan Peace Act, which aims to deter foreign companies from raising money on US markets for activities in Sudan. Talisman, a Canadian oil company, sold its Sudanese operations fearing it might be stripped of its US stock exchange listing. The US laws have caused friction with a number of other countries, most notably with EU member-states. The EU resents the 'extra-territoriality' of the US acts – the fact that America is trying to impose its domestic laws on European businesses.

Individuals are also increasingly asking national courts in the developed world to impose damages on companies which fail to uphold high social or environmental standards in developing countries. Although the details of such cases vary widely, the ultimate aim is to ensure that businesses apply the same social and environmental standards in developing countries which they adhere to in the developed world.

In the United States, the Alien Tort Claims Act permits action against US companies for their activities in third countries. The law, which dates from 1789 and was originally intended to clamp down on pirates operating from US soil, allows plaintiffs to sue companies with operations in the US for breaches of human rights aboard. For instance, US courts have allowed the Ogoni tribe of Nigeria to bring a case against the US arm of Shell. The case is based on Shell's supposed failure to use its economic and political influence to prevent the former Nigerian military government from executing Ogoni leaders – including the political activist, Ken Saro Wiwa – who were protesting against Shell oil operations on their tribal land. US courts are also examining a claim by villagers from south Burma against Unocal, an energy company, for its alleged acquiescence in the use of forced labour to lay a gas pipeline. Meanwhile, US trade unionists are attempting to sue Coca-Cola, claiming the drinks giant was complicit in the murder of trade union activists at a Colombian Coca-Cola bottling plant.

Governments have long recognised a need to resolve the problem of where plaintiffs can take legal action against companies which operate in more than one jurisdiction. Governments narrowly failed in the early 1960s to agree a convention with exactly this aim. In 1993 governments began a second attempt to reach agreement on a draft Hague Convention on 'International Jurisdiction and Foreign Judgements in Civil and Commercial Matters'. But negotiations are moving painfully slowly as governments struggle to deal with the difficulties caused by widely divergent practices in national legal systems. Furthermore, governments are unable to agree on the extent to which a business can be held responsible for the actions of an overseas subsidiary.

Many firms structure the legal relationship between the 'parent' company and its overseas subsidiaries in a manner which makes it difficult to prove that the parent is responsible for the actions of its overseas subsidiaries. For instance, Coca-Cola denies responsibiity for the Columbian murders, partly on the grounds that the bottling plant involved is a 'business partner' rather than a subsidiary.

In the EU, the 1968 Brussels Convention and the 1998 Lugano Convention established the basic rules for choosing where European companies could be sued. In 2000, the EU agreed on a single regulation to replace the two conventions. The basic principle is that companies should be sued in the country where they are domiciled – that is the place where a firm has its headquarters. The regulation is only binding within the EU. But courts in some member-states interpret this law to apply to cases involving the actions of a European company in a country beyond the EU's boundaries. Under the regulation, European businesses in some member-states can thus be held accountable for their subsidiaries in the developing world.

However, British courts have ruled that the regulation only applies when a case involves two or more EU countries. Instead, the British courts have insisted on upholding the more restrictive principle of 'forum non conveniens', which requires plaintiffs to prove that a British court really is a more suitable venue to hear a claim than the country where the alleged corporate offence took place.

However, in a landmark case in July 2000, the House of Lords ruled that former workers of a South African subsidiary of Cape, a British asbestos company, could sue for damages in the English courts. The Lords ruled that such cases should be heard in the English courts if the plaintiffs were unlikely to receive a fair hearing in the country where the offence took place. In the Cape case, the Lords found that because the plaintiffs could not afford legal representation, and the South African legal system provided neither legal aid, nor lawyers willing to take the case on a fee-on-win-only basis, the plaintiffs would not receive a fair hearing.

Campaigners have hailed the Cape case as a major advance in making companies accountable to British courts for their actions abroad. But businesses are concerned that such judgements increase the uncertainty about where and when they may face liability claims for the actions of their subsidiaries. In particular, businesses fear that plaintiffs may be encouraged to 'forum shop' – that is, hop around different legal systems until they find a court that is sympathetic to their case. For their part, governments are worried that decisions such as these could cause diplomatic tension: they could imply that the country where the offence took place possesses an inadequate judicial system.[27]

[27] *In the Cape case, the South African government has supported the plaintiffs' decision to take the case to Britain.*

As a result, there is a growing clamour for an international agreement that would clarify when and where companies can be sued for the misbehaviour of their overseas subsidiaries. Such rules would in the long run diminish the legal risks and costs faced by multinational companies.

Friends of the Earth has made the most radical suggestion: that the actions of directors and corporations should be brought within the remit of the International Criminal Court (ICC) in the Hague. But the ICC is simply not designed to hear cases against corporations – it was created to bring individuals who have committed the most serious crimes against humanity to justice. As a result, such a reform would do little to redress the genuine grievances of communities which have suffered environmental or social damage due to the actions of multinationals. Moreover, this reform would be unacceptable to most EU member-states and would be rejected out of hand by the United States. Nor are governments likely to create an international court to hear cases of corporate misbehaviour any time in the near future.

The EU should instead step up its effort to reach an international agreement on the draft Hague Convention. The convention would establish where a multinational company could be sued for alleged misdeeds. As a first step, however, the EU should attempt to redraft its own Brussels regulation to clarify the rules for dealing with cases that involve the activities of companies in non-EU countries. An EU solution to this tricky question could help forge a final agreement on the international convention.

6 Conclusion

Conclusion and summary of recommendations

The EU has an important role to play in devising public policy for the promotion of corporate social responsibility. The EU provides a natural arena for member-states to share their experiences of developing CSR policies, and to help spread best practice. The EU already passes laws on a number of issues directly related to CSR, such as trade and the environment. Europe is also gaining experience of using 'soft' policy measures, rather than endless rules and regulations, to achieve its political goals.

However, the EU should resist the temptation to put in place a series of overly prescriptive measures which stifle innovation. The practice, reporting and verification of CSR are still in their infancy: businesses, NGOs and governments should continue to debate the best guidelines rather than attempt to set rules down in stone. The EU should focus on measures such as a basic reporting requirement for quoted companies, which would encourage businesses to adopt CSR without dictating exactly what policies they must follow. In this way, CSR could help the EU fulfil its ambition of raising social and environmental standards, without damaging the competitiveness of the European economy. But CSR is ultimately a supplement, not a substitute, to traditional forms of regulation. The EU and its governments, will always have the option of using binding legislation to clampdown on perceived corporate misbehaviour.

★ The EU should set up a CSR working group, consisting of senior member-state officials and reporting to the competitiveness council. The working group should conduct a peer review of member-state CSR policies, regularly assess EU initiatives in this field and develop non-binding targets for CSR policies.

★ The enterprise commissioner should take responsibility for overseeing the EU's work on CSR. The enterprise directorate-general is best placed to work closely with member-states through the competitiveness council, and is experienced in the use of 'soft' policy tools. Other interested directorates should second staff to DG enterprise to improve departmental co-operation.

★ The EU should amend company law to require major companies to provide a statement of their CSR policies in their annual report. Such a reform would encourage the spread and convergence of CSR reporting standards. However, the EU should not prescribe what information companies must provide.

★ The EU should encourage the development of European-wide social labels, and begin a dialogue with the UN, WTO and other interested bodies about establishing global labelling standards, which are acceptable to less developed nations. But the EU should not attempt to establish its own 'official' fair trade label, which is likely to be viewed as a protectionist move by non-EU countries.

★ The EU should compel European pension funds to state their ethical policies. Several member-states have already enacted similar legislation. Such a reform would enhance transparency, in an increasingly integrated EU capital market, by ensuring that pension funds provide common information across Europe. However, the EU should not use legislation to prescribe how pension funds report on their policies, or compel funds to adopt an ethical stance.

★ The EU should encourage trade associations to play a greater role in the development of CSR guidelines that are suitable for small businesses.

★ The EU needs to establish ground-rules for member-states which wish to use fiscal incentives to encourage businesses to adopt CSR. Member-states may otherwise attempt to employ incentives in a discriminatory manner. The Commission is reviewing its state aid policies in 2003 and should clarify which incentives are acceptable. Member-states should mutually recognise the CSR policies employed by each others' businesses, otherwise governments could use compliance with national CSR guidelines in a protectionist manner when awarding procurement contracts.

★ The EU should increase its efforts to gain international agreement on the Hague Convention on International Jurisdiction and Foreign Judgements. As a first step, however, the EU should attempt to re-draft its own Brussels regulation to clarify the rules for dealing with cases that involve the activities of companies in non-EU countries.

★

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CENTRE FOR EUROPEAN REFORM
NEW IDEAS FOR A NEW EUROPE

CORPORATE SOCIAL RESPONSIBILITY IN THE EU

Alasdair Murray

The European Union wants businesses to assume greater responsibility for raising social and environmental standards. But the member-states remain deeply divided over the degree to which the EU should promote corporate social responsibility (CSR). European businesses worry that the European Commission could use CSR as an excuse to create further red tape. Alasdair Murray argues that the EU does have an important role to play in promoting CSR, providing it resists the temptation to pursue overly prescriptive policies.

Alasdair Murray is director of the business and social policy unit at the CER.

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