



International Instruments for Promoting Corporate Social Responsibility (CSR)

Corporate social responsibility (CSR) is increasingly to be found on the international agenda as globalization continues. It is by no means new, however, reaching back into the early 18th century. At that time corporate social responsibility was motivated primarily by religious or ethical convictions, although fear of radical movements also played its part.

The concept of corporate social and ecological responsibility is still very vague. Typological classification is possible by reference to the actors involved. While corporate codes of conduct are restricted to the various businesses concerned, the Global Compact (GC) and the OECD Guidelines for Multinational Enterprises are the most important business-wide, global instruments.

The Global Compact now focuses on ten principles, relating to the most important international agreements in the areas of human rights, labour and social standards, environmental standards and anti-corruption.

While further additions have been made to the GC principles, the implementing mechanisms remain weak. The business community places the emphasis on the principle of self-regulation and the best-practice approach. The NGOs, but other actors too, criticise the absence of monitoring and of sanction mechanisms.

The OECD Guidelines contrast with the GC in being the only multilaterally recognized comprehensive code to have been agreed among the governments.

The principles set out in the Guidelines go much further than the GC principles, covering such aspects as taxation, consumer interests and the disclosure of information. The general principles also formulate suppliers' and subcontractors' responsibilities.

The OECD Guidelines focus not on the documentation of best practices but on the discussion of issues within a tripartite structure (government, business, NGOs or employee organizations). This structure prevents individual actors from giving prominence to their activity primarily as a PR measure.

The GC and OECD Guidelines must be seen not as alternatives but as complementary instruments. By strengthening regional GC networks and promoting comprehensive multi-stakeholder fora, development cooperation can do a great deal to pave the way for CSR in developing countries. To increase acceptance of the GC, more needs to be done in the monitoring sphere.

As regards the OECD Guidelines, development cooperation should seek to strengthen their role in the developing countries, especially for the supply chain. Action should be taken to counteract any denial of responsibility in this sphere through the application of the Guidelines solely to investments ("investment nexus"). Increased transparency of the activities of the National Contact Points could help to increase the importance of the OECD Guidelines as a global instrument for CSR.

1. Historical development

Corporate social responsibility (CSR) is not a new phenomenon. In the early 18th century, long before the emergence of the welfare state, various paternalistically oriented businesses were already accepting social responsibility for their employees, usually on the basis of an unwritten social contract (social security in return for loyal behaviour). CSR was motivated by the businessman's religious or ethical convictions, though the latter often had their roots in fear of workers' revolts and radicalism.

In the 20th century the problem of corporate responsibility began to attract growing interest with the Great Depression of 1930, when a major debate was launched in the relevant economic and legal literature on whether businesses should perform social tasks as well as making profits, but an unequivocal answer was not found at that time. Even today the extent to which CSR activities should be classed as ethically motivated rather than essentially as a "business case" is disputed.

Even though these questions remained controversial, most western industrialized countries continued until the 1970s to support an institutional arrangement which can be called a social compact. The dominant view was that corporate managers were accountable not only to their shareholders but also to their own employees and the local environment.

Another strand of the discussion on the contribution and social responsibility of businesses dominated the development debate for a time. During the 1970s the developing countries called for greater influence over and monitoring of multinational corporations within the framework of a "New International Economic Order". This debate was soon to peter out, however.

The question of corporate responsibility has risen to prominence again since the 1980s and 1990s, especially as a result of globalization, which made a qualitative leap forward with the end of the East-West conflict.

In response to the merging of markets, accompanied by the weakening of nation states' regulating capacities, the industrialized countries increasingly perceived the reversal of social and environmental standards already achieved as a problem amounting to a "race to the bottom".

To prevent environmental and social dumping on the one hand and to counteract hidden protectionism on the other, the subject of CSR has meanwhile been placed on the development cooperation agenda.

2. Attempted definition and typological classification

The EU Commission includes environmental aspects in its definition of CSR. Accordingly, "CSR is a concept whereby companies

integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis.”

Despite various attempts at definitions, the concept of corporate social and ecological responsibility continues to be vague. The ambiguity has resulted in CSR finding support in all manner of quarters and in a wide range of actors reading their own programmes into the term.

The initiatives and concepts range from business initiatives as a bottom-up approach (business-driven) with fluid transitions in each case to measures prompted by governments (top-down/government-driven).

The bottom-up/business-driven approach is particularly true of the many corporate codes of conduct and is characteristic of most US initiatives. As the roles of the State and public institutions are clearly limited in this case, the binding nature of the codes varies widely.

The second type relates to governments as actors (government-driven). This approach is true of the OECD Guidelines, but also of the GC, and it is similarly reflected in the EU concept and the CSR approach adopted by many European countries.

The basic aim of CSR is to persuade businesses to adopt problem-solving approaches which have traditionally been regarded as areas of public responsibility. In many ways CSR therefore departs from the usual boundaries between State and market and entails a new division of accountability between public and private actors.

3. Global instruments for promoting CSR

The main global or business-wide instruments designed to induce enterprises to adopt recognisable forms of CSR currently include:

- the Global Compact and
- the OECD Guidelines for Multinational Enterprises.

3.1 The Global Compact

The GC is a voluntary international network. This initiative, which was launched by Kofi Annan five years ago, now centres on ten principles (see Box 1). These principles cover the most important international agreements in the areas of human rights, labour and social standards (ILO Declaration of 1998), environmental standards (Rio Declaration of 1992) and anti-corruption.

3.1.1 How the GC functions and what it has achieved

Involvement in the GC is voluntary and has no binding effect. Unlike the comprehensive principles of the GC, the implementing and monitoring mechanisms are still rather weak. Businesses that join the GC undertake merely:

- to advocate its principles in their annual reports, corporate policies and similar documents,
- to publicise examples, known as best practices, of progress in the implementation of the principles at least once a year on the GC website (see Box 2),
- to cooperate with the United Nations within the framework of partnership projects at both political and local level.

Compared to other voluntary networks of businesses, the GC plays a very prominent role. So far it has been able to organize over 1,300 businesses. They include such relevant top players as Nike, Shell, Rio Tinto, DaimlerChrysler, BMW, Aventis and BASF.

Box 1: The ten principles of the Global Compact

Human rights

Principle 1: Businesses should support and respect the protection of internationally proclaimed human rights; and

Principle 2: make sure that they are not complicit in human rights abuses.

Labour standards

Principle 3: Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;

Principle 4: the elimination of all forms of forced and compulsory labour;

Principle 5: the effective abolition of child labour; and

Principle 6: the elimination of discrimination in respect of employment and occupation.

Environment

Principle 7: Businesses should support a precautionary approach to environmental challenges;

Principle 8: undertake initiatives to promote greater environmental responsibility; and

Principle 9: encourage the development and diffusion of environmentally friendly technologies.

Anti-corruption

Principle 10: Businesses should work against all forms of corruption, including extortion and bribery.

It is noticeable that European and developing-country businesses are particularly well represented, while US businesses are clearly underrepresented. The reluctance shown by US businesses is due to their fear of the legal consequences, especially as regards GC's labour law principles and its proximity to the UN, seen as far from positive.

Box 2: Best practices of selected businesses (abridged extract)

DaimlerChrysler: With its POEMA (Poverty and Environment in the Amazon) project, DaimlerChrysler encourages the small communities of the Brazilian rain forest to manage their land sustainably. The natural fibres are then used in vehicle production.

Deutsche Bank: Deutsche Bank's microcredit project provides small loans for the poor in developing countries, giving them the chance to acquire basic equipment and raw materials for their commercial activities and so to break the poverty cycle.

British American Tobacco: Souza Cruz SA, a Brazilian subsidiary of BAT, has set up a programme for combating child labour. The aim of the programme, The Future is Now, is to give children under 16 a decent education.

Surveys of businesses indicate that most would have applied the principles even if the GC had not existed. But they would probably have been confined to the industrialized countries. According to the businesses concerned, there are some indications that the activities initiated have become more widespread as a result of the GC.

In the developing countries the GC has clearly played a more important role. Many of their businesses saw the GC as the first major initiative in the area of CSR.

Surveys have shown that businesses in the developing countries primarily hope to have a better chance of winning supply contracts with multinational enterprises by participating in the GC.

3.1.2 Strategic role of the GC: transformation process in the relationship between the United Nations and the private sector

Although the GC focuses primarily on businesses, it has also stimulated the UN's reform agenda and equipped governments with an additional instrument for casting businesses in a new role in society.

Businesses themselves describe the GC's role in the UN's transformation process as regards cooperation with the private sector as follows: "from its mere existence, the compact has had a transformative impact on the UN's relationship with the private sector. The fact that the Secretary General is so publicly associated with this initiative gives the UN credibility with business that it has never had before" (McKinsey & Company, 2004, p. 14).

In multi-stakeholder fora the GC has also helped to bring previously disparate actors together in new forms of cooperation and dialogue and initiated global networks.

3.1.3 Interim stocktaking and options for action

Although the GC added anti-corruption to its principles five years after its establishment, the implementing mechanism and monitoring have not made any further progress. This partly accounts for the considerable scepticism with which the GC is received by civil society actors.

While the best practices of businesses outlined above may well have positive spill-over effects, they still tend to be selective snapshots. This will be true as long as there are no reports on violations of the principles and no naming of the "black sheep". A balanced approach of this kind would be primarily in the interests of businesses which comply with the standards that have been set.

Many businesses in developing countries believe the GC has helped to bring the CSR idea to those countries. This has enabled them to prepare themselves better to meet the new requirements in the industrialized countries' export markets or those of multinational enterprises operating locally.

In many cases the multi-stakeholder fora emerging in this context primarily represent the business side, while the representation of civil society organizations, for example, is usually weak.

The GC might gain substantially in importance if the local/regional GC networks could be strengthened and more multi-stakeholder fora established. Development cooperation could make a decisive contribution in this respect by improving the capacities of NGOs.

3.2 The OECD Guidelines for Multinational Enterprises

The OECD Guidelines contrast with the GC and the many corporate codes of conduct in being the only multilaterally recognized code agreed by governments among themselves. While the OECD Guidelines for enterprises are based on the principle of voluntary adherence, the governments have undertaken to encourage their implementation.

The scope of the OECD Guidelines is not confined to the territory of the "adhering countries" (OECD countries and selected countries with observer status), but is geared to all countries – including, therefore, the developing countries – in which businesses operate.

The voluntary principles and standards agreed in the OECD Guidelines concern the following subject areas:

- employment and industrial relations,
- human rights,
- environment,
- disclosure of information,
- combating bribery,

- competition,
- consumer interests,
- science and technology and
- taxation.

The general principles also formulate responsibilities to be accepted by suppliers and subcontractors, who are to be encouraged to apply the principles of the OECD Guidelines where practicable.

3.2.1 Implementing and monitoring mechanisms

Provision is made for implementing and monitoring mechanisms at both national and OECD level.

- At national level the adhering countries establish National Contact Points (NCPs), whose task it is to promote the implementation of the Guidelines.
- The National Contact Points usually have a tripartite structure, involving businesses, business organizations, trade unions and NGOs in their work. If problems and disputes arise during the implementation of the Guidelines, the actors can turn to the appropriate Contact Point.
- Each National Contact Point is required to submit an annual report to the OECD Investment Committee and to participate in the annual exchange of experience among all the National Contact Points.
- The Investment Committee is the decisive institution at OECD level for monitoring the application and interpretation of the Guidelines.
- The Investment Committee has regular discussions with the Business and Industry Advisory Committee (BIAC), the Trade Union Advisory Committee (TUAC) and, recently, NGOs.

3.2.2 Experience of the National Contact Point and Investment Committee

Of prime importance for the implementation of the OECD Guidelines are the working methods of the National Contact Points and the Investment Committee. However, this mechanism does not yet provide for either compensation or sanctions. When complaints are made, the NCPs confine themselves largely to noting whether or not the action taken by a business complies with the OECD Guidelines. For the complainants (usually NGOs or representatives of employee interests) issues often provide an opening for naming-and-shaming activities.

Since the revision of the OECD Guidelines in 2000, however, only about 40 instances have been considered by National Contact Points throughout the world. While the majority of issues initially arose in OECD countries, the emphasis has now shifted to issues in developing countries, many concerning relations with suppliers.

In 2004 the first list of pending issues was published. More detailed information on the specific content of the complaints is not, however, publicised.

The available data reveal that there have so far been few cases in which an agreed final declaration has emerged. In some cases the statement issued by the NCPs has been confined to a description of the issue. It is rare for an explicit statement to be made on a violation of the OECD Guidelines. Many NCPs obviously have no interest at all in actually punishing businesses for past violations of the OECD Guidelines (see Box 3).

Given the latest experience of having to implement the OECD Guidelines in specific conflict areas with weak governments, such as the Democratic Republic of the Congo (DR Congo) (see Box 4), the Investment Committee intends to take a closer interest in the problems of multinational enterprises in conflict areas in the future.

Box 3: Complaint lodged with the German NCP by the Clean Clothes Campaign (CCC) against adidas- Salomon in Indonesia

The complainant, CCC, accused the suppliers of adidas-Salomon in Indonesia of not abiding by the OECD Guidelines. The substance of the complaint concerned working conditions, minimum wages and the right of the suppliers' employees to organize themselves. The complainant and defendant were unable to reach an agreement, mainly because the information needed for an unequivocal appraisal and classification of the situation could not be obtained. The absence of an "investment nexus" was not singled out for discussion. The two parties did agree, however, that the dialogue initiated by the NCP had helped to increase the exchange of information and to improve transparency, even though the complaint procedure could not be brought to a satisfactory conclusion. The procedure was evidently based on the principle of "we agree to disagree".

Source: Statement by the German NCP, 24 May 2004

Recently the discussion of issues at the NCPs has often been determined by questions as to the existence or non-existence of an "investment nexus". This is very important since the OECD Guidelines focus primarily on investments rather than trade relations. With the aim being that the OECD Guidelines should, on the other hand, extend wherever possible to include the supply chain, there is here a grey area which has also produced different results in the assessment of individual issues.

Box 4: UN Expert Panel Report on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the DR Congo

In its 2002 report on the DR Congo the UN Panel of Experts noted that some 85 businesses had failed to comply with the OECD Guidelines. The OECD governments concerned were asked to look into the matter.

In 2003 it was considered by the Investment Committee. The information available to the UN Panel was forwarded to the appropriate NCPs. However, some of it proved to be too general. While the UN Panel's mandate is now considered to have been completed, many NCPs are still engaged in processing the issues referred to the Panel. The businesses concerned are located in Belgium, Canada, France, Germany, the Netherlands, the United Kingdom and the USA. Some NCPs have been proactive in informing businesses even if they were not mentioned in the Panel Report.

Most cases have meanwhile been closed. The information usually proved to be inadequate, and the accusations were obviously not substantial or were rejected in the absence of an "investment nexus".

Source: OECD (2004)

3.2.3 Conclusion and options for action

All in all, it can be said of the OECD Guidelines that with, above all else, the establishment of the NCPs and the exchange of experience on issues arranged through the Investment Committee an internationally important implementing mechanism has been created to enable compliance with and the application of decisive CSR principles to be discussed. As issues are also considered in this context, this mechanism is far superior to the one-sided best-practices approach of the GC. The range of subject areas covered

by the OECD Guidelines should also be emphasized. They go well beyond the GC principles and may also make an important contribution in the areas of "taxation", "consumer interests", "competition" and "science and technology". The greater significance of the Guidelines for the developing countries is underlined by the references to responsibility for suppliers and subcontractors.

Issues are, however, usually considered by the NCPs in a form that lacks transparency for the general public and so escapes systematic assessment. Better disclosure is urgently needed and would increase the importance of the OECD Guidelines and strengthen the role of the NCPs.

The fact that, in the case of some NCPs or some issues, trade-related activities of multinational corporations have been interpreted as not being covered by the OECD Guidelines owing to the absence of an "investment nexus" conflicts with the general principles of the Guidelines, which provide for responsibility for the supply chain. To prevent any erosion of the Guidelines, the Federal Ministry for Economic Cooperation and Development (BMZ) should initiate a constructive problem-solving approach in agreement with the Federal Ministry for the Economy and Employment (BMWA) and the Investment Committee.

For producers in the developing countries the voluntary implementation of the OECD Guidelines can be used as a competitive advantage, although in some cases the expectation of having to implement the OECD Guidelines is perceived as hidden protectionism. Through purposeful capacity-building, development cooperation should demonstrate the benefits of the Guidelines for the developing countries.

Some OECD countries (e.g. the Netherlands) make the allocation of investment protection guarantees and export subsidies conditional on the explicit willingness of businesses to abide by the OECD Guidelines. German development cooperation should similarly promote this approach.



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